doubt in my mind that it caused trees to grow on the lands of the 1 company that was favored by a cooperative agreement.

DEPARTMENT OF AGRICULTURE,
Washington, D. C., June 24, 1957.

Hon. JAMES E. MURRAY,
Chairman, Committee on Interior and Insular Affairs,
United States Senate.

DEAR SENATOR MURRAY: Reference is made to your letter of June 4 requesting a draft of legislation which would revoke the Federal unit and cooperative sustained-yield unit authority of the act of March 29, 1944.

Attached is a draft bill which would repeal those authorities but would not affect the sustained-yield units heretofore established under the act.

You inquired as to authority for cooperative agreements between Federal departments. The draft bill makes no exception with respect to the authority under section 4 of the act (16 U. S. C. 583c) regarding interagency agreements. This is because (a) the interagency authority under section 4 pertains only to land-management plans authorized by the March 29, 1944, act and (b) other authority to cooperate with Federal agencies is considered to be ample.

We would have no objection to the enactment of this bill.

The Bureau of the Budget advises that there is no objection to the submission of this draft bill.

Sincerely yours,

E. T. BENSON,
Secretary.

SENATE

FRIDAY, JULY 19, 1957

(Legislative day of Monday, July 8, 1957)

The Senate met at 12 o'clock meridian, on the expiration of the recess.

The Chaplain, Rev. Frederick Brown Harris, D. D., offered the following prayer:

Eternal God and Father of all men, who bringeth forth righteousness as the light and judgment as the noonday, our souls wait upon Thee, our expectation is from Thee. Our spirits, forever restless without Thee, must have an escape into that higher realm measured not by clocks nor calendars.

In this Chamber of governance, symbol of a free land, where the people rule, make real to Thy servants who here speak and act for the Republic, the kingdom within whose radiant qualities are its faith, its ideals, its visions of beauty, and its aspirations that lay hold of spiritual verities.

We ask it in the dear Redeemer's name. Amen.

THE JOURNAL

On request of Mr. MANSFIELD, and by unanimous consent, the Journal of the proceedings of Thursday, July 18, 1957, was approved and its reading was dispensed with.

LEAVE OF ABSENCE

On request of Mr. JAVITS, and by unanimous consent, Mr. MORTON was granted leave from attendance on the session of the Senate today, because of family illness.

THE CIVIL-RIGHTS DEBATE

Mr. MANSFIELD. Mr. President, I want to take this opportunity to compliment the majority leader, the senior Senator from Texas [Mr. JOHNSON], and the minority leader, the senior Senator from California [Mr. KNOWLAND], for their great leadership and fine understanding of the issues in connection with the debate now going on.

I should also like to commend the senior Senator from Georgia [Mr. RUSSELL], the Senator from North Carolina [Mr. ERVIN], the Senator from New York [Mr. JAVITS], the Senator from Illinois [Mr. DOUGLAS], the Senator from New Mexico [Mr. ANDERSON], the Senator from Vermont [Mr. AIKEN], the Senator from Wyoming [Mr. O'MAHONEY], the Senator from Minnesota [Mr. HUMPHREY], and all the other Senators who have participated in the debate and have offered suggestions, amendments, and proposals which seek to clarify and delineate the issues before us.

I believe also that the press, radio, and television coverage of this debate has been outstanding as regards the desire to bring home to the American people both sides—perhaps I should say all sides—of the questions involved in the proposed legislation before the Senate. My thanks, too, go to the commentators who have expressed their interpretations through the media of communications. A great good has been done in behalf of the people of the country, to the end that a better understanding can be achieved. Truly, the fourth estate—and I use the term collectively—which is not an arm of the Government, but is, in fact, a check on the Government, has performed an outstanding, impartial, and thoroughly commendable service.

It is the hope of the leadership, in the persons of the Senator from Texas [Mr. JOHNSON] and the Senator from California [Mr. KNOWLAND], I am sure, that the debate will continue on the same high plane which has marked our deliberations to date, and that although this is an emotionally charged issue, our emotions will be kept to a minimum. The law and the principles involved should continue to serve the Senate of the United States as guidelines in the days ahead just as they have in the decades past.

TRANSACTION OF ROUTINE MORNING BUSINESS

Mr. MANSFIELD. Mr. President, pursuant to the order entered on yesterday, there will be a period for the transaction of routine business, with statements limited to 3 minutes.

The PRESIDENT pro tempore. Routine business is now in order.

REPORT OF ADVISORY COMMITTEE ON WEATHER CONTROL

The PRESIDENT pro tempore laid before the Senate a communication from the President of the United States, transmitting, pursuant to law, a report from the Advisory Committee on Weather Control, dated August–November 1955, which, with the accompanying papers, was referred to the Committee on Interstate and Foreign Commerce.

PETITIONS AND MEMORIALS

Petitions, etc., were laid before the Senate, or presented, and referred as indicated:

By the PRESIDENT pro tempore:

Resolutions of the General Court of the Commonwealth of Massachusetts; to the Committee on Labor and Public Welfare:

"Resolutions Memorializing the Congress of the United States to Adopt Legislation for the Creation of a Federal Revolving Loan Fund and the Establishment of Certain Loan Guaranty to Enable State and Local Governments to Borrow Money for Public Projects at Low Interest Rates

"Whereas many State, town and city governments have been prevented from undertaking the construction of urgently needed schools, hospitals, and highways because of the prohibitive cost of borrowing the necessary funds; and

"Whereas the Federal Government has within its resources the means of giving relief to State and local governments for these purposes in accordance with the announced policy of the Eisenhower administration to encourage and stimulate State and Federal partnerships: Therefore be it

"Resolved, That the General Court of Massachusetts respectfully urges the Congress of the United States to adopt legislation for the creation of a Federal revolving loan fund and the establishment of certain loan guaranties and to enact such other legislation as may be necessary to enable State and local governments to borrow funds at low-interest rates for the purposes of public education, public health and other public needs so vital to our citizens; and be it further

"Resolved, That the Secretary of the Commonwealth transmit forthwith copies of these resolutions to the President of the United States, to the presiding officer of each branch of the Congress of the United States, and to each Member thereof from this Commonwealth.

"House of representatives, adopted July 9, 1957.

"LAWRENCE R. GROVE, *Clerk.*

"Senate, adopted in concurrence, July 11, 1957.

"IRVING N. HAYDEN, *Clerk.*

"A true copy. Attest:

"EDWARD J. CRONIN,
"Secretary of the Commonwealth."

A resolution adopted by the United States section of the Women's International League for Peace and Freedom, at Miami Beach, Fla., relating to disarmament; to the Committee on Foreign Relations.

A petition signed by O. J. Hamilton, and sundry other citizens of the States of Michigan and California, relating to the return of members of the United States Armed Forces who were captured and unaccounted for by the enemy in the Korean war; to the Committee on Foreign Relations.

RESOLUTIONS OF FARMERS' MEETING AT OKLEE, MINN.

Mr. HUMPHREY. Mr. President, last night in the small town of Oklee, Minn., population 494, more than 800 farmers from seven northwestern Minnesota counties which were recently designated by the Secretary of Agriculture as disaster counties eligible for emergency loans under Public Law 38 met with the State of Minnesota USDA Disaster Committee and the national Administrator of the Farmers' Home Administration.

The Disaster Committee and the FHA Administrator met with these Minnesota farmers at the request of State Representative Ben. M. Wichterman, when it became clear that the Department of Agriculture would not take effective emergency action to help farm families in the area without an official recommendation for help from the State USDA Disaster Committee. I am glad to report that the Secretary of Agriculture responded promptly to my request to arrange this meeting, and I believe the Department will now have sufficient data upon which to take effective action in the Northwestern Minnesota disaster area.

The group at Oklee passed a number of resolutions dealing with specific needs of the area, which I have now received. Mr. President, I ask unanimous consent to have printed at this point in the RECORD, the resolutions adopted by more than 800 farmers meeting on July 17, 1957, at Oklee, Minn.:

There being no objection, the resolutions were ordered to be printed in the RECORD, as follows:

RESOLUTIONS FROM THE FARMERS OF RED LAKE, POLK, CLEARWATER, PENNINGTON, MARSHALL COUNTIES OF THE STATE OF MINNESOTA

Whereas the farming community in this area has suffered the natural calamity of excessive rainfall and the financial reserves of many have disappeared and their equities are reduced to the point of disaster, be it therefore resolved that an appeal to the Farmers' Home Administration be made for assistance for an intermediate credit program to give financial aid in sufficient amount so as to enable a farmer to consolidate his accumulated indebtedness to be repaid over a period of not less than 10 years. Be it further resolved that should a natural calamity again strike, during the period of the loan, additional credit could be made available and the length of the loan extended.

Wheres many farmers in our disaster area have been unable to secure sufficient quantities of hay and whereas there are fields in our area growing hay crops that are contained in the soil bank program, be it therefore resolved that the USDA release that soil bank acreage that is growing that hay crop and that the farmer may still be eligible to receive his soil bank payment as contracted.

Whereas the farming community in this area of the State has suffered the natural calamity of excessive rainfall and whereas the entire drainage system in this area is funneled into the Red River of the North and whereas our overall drainage has not been developed as adequate to handle such a disaster and whereas the area is so large as to render the soil conservation district as insufficient, be it therefore resolved that a water shed area for the Red River and its tributaries be established so as to survey the entire area and initiate a drainage development program to alleviate our distress. Be it further resolved that consideration be given to the establishment of a reservoir to contain our excessive rain.

Whereas many farmers of the northwestern part of Minnesota have suffered the loss of their entire crop and livestock feed during the past year, and whereas these same people are unable to secure adequate credit to buy necessary feed, now therefore be it resolved that immediate grants be given those distressed farm operators to secure hay and feed to maintain their livestock enterprises.

HUMANE SLAUGHTER OF LIVESTOCK—LETTER

Mr. CARLSON. Mr. President, the board of directors of the Kansas Livestock Association have written me a letter in which they express their opposition to H. R. 8308, which deals with humane slaughter of livestock.

In their letter to me, the directors of the organization state they strongly favor humane treatment in the handling, transportation, and slaughter of livestock; but they urge that progress in this matter be made through the continued cooperation of various persons and agencies which are affected by this proposed legislation.

I ask unanimous consent that the letter be printed in the RECORD, and referred to the appropriate committee.

There being no objection, the letter was referred to the Committee on Agriculture and Forestry, and ordered to be printed in the RECORD, as follows:

KANSAS LIVESTOCK ASSOCIATION,
Topeka, Kans., July 17, 1957.

Hon. FRANK CARLSON,
Senate Office Building,
Washington, D. C.

DEAR SENATOR CARLSON: Our board of directors, meeting in Garden City July 12, opposed H. R. 8308, a bill which deals with humane slaughter of livestock. Our group feels that the bill would only cost livestock producers. Packers have for some time cooperated in a joint committee with the Humane Society in improving methods of handling livestock.

Our directors strongly favor humane treatment in the handling, transportation, and slaughter of livestock but urge that progress in this matter be made through the continued cooperation of packers, producers, and handlers, and the Humane Society, rather than through legislation.

We hope you will consider our stand in this matter.

Very truly yours,
A. G. PICKETT, *Secretary.*

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. JOHNSTON of South Carolina, from the Committee on Post Office and Civil Service, without amendment:

S. 1411. A bill to amend the act of August 26, 1950, relating to the suspension of employment of civilian personnel of the United States in the interest of national security (Rept. No. 686); and

S. 1901. A bill to amend section 401 of the Federal Employees Pay Act of 1945, as amended (Rept. No. 687).

By Mr. JOHNSTON of South Carolina, from the Committee on Post Office and Civil Service, with an amendment:

S. 2127. A bill to amend section 3 (d) of the Federal Employees' Group Life Insurance Act of 1954, relating to the reduction in amounts of insurance of persons over the age of 65 (Rept. No. 688).

By Mr. JOHNSTON of South Carolina, from the Committee on Post Office and Civil Service, with amendments:

S. 919. A bill relating to holiday work by rural carriers (Rept. No. 689).

By Mr. BIBLE, from the Committee on the District of Columbia, without amendment:

S. 1841. A bill to authorize the District of Columbia Board of Education to employ retired teachers as substitute teachers in the public schools of the District of Columbia (Rept. No. 690); and

H. R. 4932. An act to amend the act of July 11, 1947, to increase the maximum rate of compensation which the director of Metropolitan Police force band may be paid (Rept. No. 691).

By Mr. BIBLE, from the Committee on the District of Columbia, with amendments:

H. R. 1937. An act to authorize the construction, maintenance, and operation by the Armory Board of the District of Columbia of a stadium in the District of Columbia, and for other purposes (Rept. No. 692).

By Mr. BUTLER, from the Committee on the Judiciary, without amendment:

H. R. 4240. An act for the relief of Cornelia S. Roberts (Rept. No. 693).

EXECUTIVE REPORT OF A COMMITTEE

As in executive session,

The following favorable report of a nomination was submitted:

By Mr. GREEN, from the Committee on Foreign Relations:

H. Freeman Matthews, of the District of Columbia, to be Ambassador Extraordinary and Plenipotentiary to Austria.

BILLS AND JOINT RESOLUTION INTRODUCED

Bills and a joint resolution were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. JOHNSTON of South Carolina (by request):

S. 2588. A bill to credit to postal revenues commissions on pay telephones located in postal facilities and other items of revenues which otherwise would be required to be deposited by the Post Office Department in miscellaneous receipts of the Treasury, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. SPARKMAN:

S. 2589. A bill to amend title 10, United States Code, entitled "Armed Services Procurement Act of 1947"; to the Committee on Armed Services.

By Mr. YARBOROUGH:

S. 2590. A bill to provide for the establishment of a veterans' hospital in south Texas; to the Committee on Labor and Public Welfare.

(See the remarks of Mr. YARBOROUGH when he introduced the above bill, which appear under a separate heading.)

By Mr. WATKINS:

S. 2591. A bill for the relief of Anastassia Kati Oborn; to the Committee on the Judiciary.

By Mr. JACKSON:

S. 2592. A bill to amend the law relating to the execution of contracts with Indian tribes; and

S. 2593. A bill to promote the increase and diffusion of knowledge of the polar regions, the Arctic and Antarctic; to the Committee on Interior and Insular Affairs.

By Mr. JACKSON (by request):

S. 2594. A bill to transfer certain property and functions of the Housing and Home Finance Administrator to the Secretary of

the Interior, and for other purposes; to the Committee on Banking and Currency.

By Mr. SPARKMAN (for himself and Mr. THYE):

S. 2595. A bill to authorize the employment of working capital funds in the procurement and replacement of durable productive equipment; to the Committee on Armed Services.

By Mr. SPARKMAN:

S. J. Res. 126. Joint resolution placing certain individuals who served in the Armed Forces of the United States in the Moro Province, including Mindanao, and in the islands of Leyte and Samar after July 4, 1902, and their survivors, in the same status as those who served in the Armed Forces during the Philippine insurrection and their survivors; to the Committee on Finance.

PRINTING AS A SENATE DOCUMENT THE REPORT OF ACTING SECRETARY OF AGRICULTURE ON METHODS OF IMPROVING FEED-GRAIN PROGRAM

Mr. ELLENDER submitted the following resolution (S. Res. 168), which was referred to the Committee on Rules and Administration:

Resolved, That there be printed as a Senate document the report from the Acting Secretary of Agriculture on possible methods of improving the feed-grain program pursuant to Senate Resolution 125, 85th Congress, 1st session, and that 2,500 copies be printed for the use of the Senate Committee on Agriculture and Forestry.

CONSTRUCTION OF A VETERANS HOSPITAL IN SOUTH TEXAS

Mr. YARBOROUGH. Mr. President, the 14th and 15th Congressional Districts of Texas embrace 32 counties, with a population of approximately 1 million persons, and an area of 34,168 square miles. In all of this area, Mr. President, there is not one Veterans' Administration hospital. In all of this vast area from San Antonio to the Rio Grande River and from San Antonio to the Gulf of Mexico, veterans seeking hospitalization must travel many miles; some of them must travel over 400 miles to the nearest Veterans' Administration hospital. It is uneconomical to the Government, and also a physical hardship on the veterans to require them to travel such long distances to veterans' hospitals.

This is an area which includes the rich Rio Grande Valley of Texas and the seaports of Corpus Christi and Brownsville, which are large deepwater seaports. The population in this area is increasing at a rapid pace, and the hospital needs of our veterans are similarly increasing. Unfortunately, we veterans are not getting any younger. Recent testimony before the House Committe on Veterans' Affairs reveals that there are 300,000 veterans in this area. The need is immediate.

Mr. President, I introduce a bill providing for a Veterans' Administration hospital in either the 14th or 15th Congressional District of Texas, and request that it be read and referred to the appropriate committee.

The PRESIDENT pro tempore. The bill will be received and appropriately referred.

The bill (S. 2590) to provide for the establishment of a veterans' hospital in south Texas, introduced by Mr. YARBOROUGH, was received, read twice by its title, and referred to the Committee on Labor and Public Welfare.

CIVIL RIGHTS—AMENDMENTS

Mr. WATKINS. Mr. President, I submit an amendment which I intend to propose to House bill 6127, the civil-rights bill. I ask that the amendment be printed and lie on the table, and that it also be printed in the RECORD.

The PRESIDENT pro tempore. The amendment will be received and printed, and will lie on the table; and, without objection, the amendment will be printed at this point in the RECORD.

The amendment submitted by Mr. WATKINS is as follows:

On page 9, beginning with line 10, strike out down to and including line 18 on page 10, and insert the following:

"PART III—TO STRENGTHEN THE CIVIL RIGHTS STATUTES

"SEC. 121. (a) Whenever any person, acting under color of any law, statute, ordinance or regulation, has engaged, or there are reasonable grounds to believe is about to engage, in any act or practice which would deprive any person of the equal protection of the laws by reason of his color, race, religion, or national origin, the Attorney General may institute for the United States a civil action for preventive relief, including an application for a permanent or temporary injunction or restraining order; provided, that nothing in this subsection shall grant to the Attorney General any additional authority to that which now exists to institute a civil action where the acts or practices alleged to deprive any person of the equal protection of the laws relate to attendance at public schools or the use of parks or other public facilities by the various races. In any proceeding hereunder, the United States shall be liable for costs the same as a private person.

"(b) If two or more persons in any State or Territory conspire for the purpose of preventing or hindering the constituted authorities of any State or Territory or any legal subdivision or agency thereof from giving or securing to all persons within such State or Territory the equal protection of the laws, the Attorney General, at the request of the constituted authorities which are the object of said conspiracy, may institute for the United States a civil action for preventive relief, including an application for a permanent or temporary injunction or restraining order.

"(c) Nothing in this section shall be construed as impairing any rights secured by the Constitution and laws of the United States, or any remedies already existing for their protection and enforcement."

Mr. CASE of South Dakota submitted amendments, intended to be proposed by him, to the bill (H. R. 6127) to provide means of further securing and protecting the civil rights of persons within the jurisdicion of the United States, which were ordered to lie on the table and to be printed.

ADDRESSES, EDITORIALS, ARTICLES, ETC., PRINTED IN THE RECORD

On request, and by unanimous consent, addresses, editorials, articles, etc., were ordered to be printed in the RECORD, as follows:

By Mr. HUMPHREY:

Address delivered by Representative MCGOVERN, of South Dakota, at the IUE-AFL-CIO civil rights conference in Chicago, Ill., on May 25, 1957.

PRESIDENTIAL POLICY AND RESPONSIBILITY

Mr. SYMINGTON. Mr. President, early this year, President Eisenhower presented to the Congress a budget for the Department of Defense of $36,128,000,000, exclusive of military construction.

This military budget was reduced by the House of Representatives some $2,587,000,000. The President thereupon got out his pruning knife, and, after reviewing the entire situation, agreed to more than half of the House reduction.

As to the remaining some $1,220,000,000, however, the President could not have been more firm in his position that the Congress should restore that amount. In fact, in an extraordinary effort to obtain the restoration of this $1,220,000,000 in a televised broadcast last May 14, he appeared before the people of this country and the Free World.

This is what the President said:

I earnestly believe that this defense budget represents, in today's world, the proper dividing line between national danger on the one hand and excessive expenditures on the other. If it is materially cut, I believe the country would be taking a fearful gamble. For myself, I have seen unwise military cuts before. I have seen their terrible consequences; I am determined to do all I can to see that we do not follow that foolhardy road again.

Many of us believed in his sincerity at that time. Accordingly, we endeavored to have this money restored, in accordance with the President's urgent appeal. Nine hundred seventy-one million dollars was restored by the Senate—about 80 percent of what the President requested.

To our amazement, we now find that when the House and Senate conferees met earlier this week, the President sent to them two letters, both suggesting that most of his requested restoration be eliminated.

In other words, in May, President Eisenhower said this reduction would be a "fearful gamble"; that he had seen before the "terrible consequences of such action"; and that he did not want again to follow "a foolhardy road."

But now, within the space of a few weeks, he again reverses his position.

Mr. President, this is incredible irresponsibilty.

With such vacillating policies, how can anyone direct the destinies of this Nation?

Where is the leadership?

What are the people to think?

What is the Congress to think?

In the future, when the President speaks on the subject he is supposed to know best, are we to respect his judgment—or are we to ignore it?

It is becoming ever more clear that we do not have the character and type

of determined leadership necessary to fulfill the position that destiny has given us in the free world.

Mr. President, none of this is made up. I merely point out the record, as we continue down the road.

Mr. CLARK. Mr. President, will the Senator from Missouri yield to me?

The PRESIDING OFFICER (Mr. SPARKMAN in the chair). Does the Senator from Missouri yield to the Senator from Pennsylvania?

Mr. SYMINGTON. I am glad to yield to my able colleague from Pennsylvania.

Mr. CLARK. Mr. President, I hold in my hand an editorial entitled "Going It Alone on Disarming?" The editorial was published today in the Philadelphia Inquirer.

The last paragraph of the editorial is so pertinent to the able comments made by my friend, the distinguished Senator from Missouri—with which comments I find myself in complete agreement—that I wish to ask him whether he believes that the following portion of the editorial rather well states what he has just told the Senate:

Everybody wants lower costs and taxes—but no American wants these boons at the risk of national safety. We have already cut back our air and missile programs. Let us not go it alone on disarmament before the Soviet Union, by deeds and not by inflamed rhetoric, proves beyond the smallest doubt its intent to work with us for a peaceful world.

Is the Senator from Missouri in accord with that sentiment?

Mr. SYMINGTON. Completely. In addition, the vacillating policies of the President of the United States with respect to what this country needs in its Military Establishment are not only making a joke out of the disarmament conference now going on in Great Britain, but also are making the United States a laughingstock among the thinking people of the free world, as well as those behind the Iron Curtain.

Mr. CLARK. I wonder if the Senator will yield long enough so that I may ask unanimous consent that the editorial from the Philadelphia Inquirer may be printed at this point in my remarks.

Mr. SYMINGTON. I shall be happy to do so, and I thank the distinguished Senator.

The PRESIDING OFFICER. Is there objection?

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

GOING IT ALONE ON DISARMING?

Defense Secretary Wilson's order to reduce America's Armed Forces, for economy reasons, by close to 100,000 before the end of the year raises two questions:

Is this the right time to make such a substantial cut in the Nation's military strength, even for a saving of $200 million?

Are there not means to yield sizable economies in the Armed Forces which would not amount, in effect, to unilateral disarmament by this country?

We are dubious about Secretary Wilson's order in spite of his assurance that the proposed reductions can be made without materially affecting deployments of major combat units abroad.

The fact remains, whatever the success of the streamlining technique by which Mr. Wilson hopes to ease over the reduction, that the word has gone out to cut the Army by roughly 50,000, the Air Force by 25,000, the Navy by 15,000, and the Marines by 10,000. Actually the slash will be a few thousands less than the specified 100,000.

It is true that the size of the administration's budget has brought loud demands for economy. But should these cries for reduced spending be permitted to dictate economies which conceivably could curtail vital national defenses? We don't think so.

Back of Secretary Wilson's order, which the President has approved is, of course, the somewhat quieter international situation and the recent downgrading of the old Stalinist fire-eaters in Moscow. Threats of Communist aggression are at least in abeyance and patient efforts are being made in London for a first step toward general disarmament.

But there is as yet no proof that the Soviet Union has in any way dropped its sights from eventual world domination.

Meanwhile, President Eisenhower has warned that a $400 million slash in foreign aid funds made by the House is a "threat to our Nation's security." Is there no threat to security in the $200 million slash in our present Armed Forces?

Meanwhile, also, the House Government Operations Committee has come up with the information that 10 years and $300 million have been spent to find out that the military buys 3,128,613 separate items—including 3,480 different styles of shoes. With a greater degree of Armed Forces unification, couldn't all this buying be standardized to produce not only lower costs but greater efficiency?

Speaking of the lack of unification, the operations committee has discovered interservice disputes even over how long bacon should be smoked. The Army and Marine Corps want their frozen slab bacon smoked 42 hours but the Navy says 24 hours is enough. Couldn't a great deal of money be saved on bacon, shoes, and a few hundred thousand other items if the Defense Department really got down to business on unified supplies procurement?

In the current Newsweek magazine Gen. Carl Spaatz, former Air Chief of Staff, gives a pointed warning:

"If Khrushchev is sincere about wanting to make a new start, let him prove it by permitting the reunification of Germany and by restoring the independence of the Middle European corridor from the Baltic States to Rumania. When he does all this it will be time for the United States to consider real disarmament."

Everybody wants lower costs and taxes—but no Ameriacn wants these boons at the risk of national safety. We have already cut back our air and missile programs. Let us not go it alone on disarmament before the Soviet Union, by deeds and not by inflamed rhetoric, proves beyond the smallest doubt its intent to work with us for a peaceful world.

CIVIL RIGHTS—AMENDMENTS

Mr. KNOWLAND. Mr. President, I desire to send amendments to the desk, and I ask that they be printed and lie on the table. Briefly, the amendments provide that the reports to be made by the Commission under part I shall not only be made to the President but shall also be made to the Congress of the United States. Secondly, the amendments provide that the Director shall be appointed by the President by and with the advice of the Senate of the United States. Third, they strike out the provision of the bill providing for volunteer help for the Commission.

I think these are all constructive amendments to part I, and I shall discuss them at a later time when the matter is before the Senate.

The PRESIDING OFFICER. The amendments will be received and printed, and will lie on the table.

THE DEBATE ON THE CIVIL RIGHTS BILL

Mr. SMITH of New Jersey. Mr. President, I want to take this occasion to extend my warmest congratulations to our two leaders during the debate on the civil-rights bill. I wish to say, first, I did not collaborate with the Senator from Montana [Mr. MANSFIELD] on what he had to say about it this morning, but I am always happy to be on the same side as the Senator from Montana.

Mr. MANSFIELD. I wish to say I have not seen the Senator from New Jersey from late yesterday afternoon until just now.

Mr. SMITH of New Jersey. I am glad we have taken care of that alibi.

The Senator from Texas [Mr. JOHNSON] and the Senator from California [Mr. KNOWLAND] deserve the commendation of all of us for the masterly way they have kept this debate on a plane of sound and intelligent analysis and have influenced the Members on both sides to refrain from bitterness or extravagant statements, and to get right at the issues that are facing us.

I think a special note of commendation is due to the Senator from North Carolina [Mr. ERVIN] and the Senator from New York [Mr. JAVITS] for the masterly manner in which they have explained, from their respective points of view, the significance of part III.

A word is due to the press, also. I never saw a debate more accurately reported, and I refer especially to the columns of Roland Evans in the New York Herald Tribune, and William White in the New York Times.

I was particularly impressed this morning by an article in the New York Times entitled "Civil Rights Bill Is Legal Tangle," by E. W. Kenworthy. This was such a fine summary of where we seem to be at the present moment that I think it will be helpful to every Member of the Senate to read it carefully before we vote on the pending amendments next week.

Mr. President, I ask unanimous consent that the article in question be published in full in the body of the RECORD in connection with my remarks.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

CIVIL-RIGHTS BILL IS LEGAL TANGLE—ANALYSIS OF HOW MEASURE GREW TRACES DIFFERENT STATUTES INVOLVED

(By E. W. Kenworthy)

WASHINGTON, July 18.—After the first 2 weeks of Senate debate on civil rights, a good many citizens probably share the views of Dick the Butcher in Henry VI.

"The first thing we do," said Dick, "let's kill all the lawyers."

Ordinary citizens, however, were not the only ones ignorant of all the bill contained. It breezed through the House with scarcely any attention to the questions that have embroiled the Senate and made major deletions and amendments certain.

And even President Eisenhower conceded that he had thought the bill's principal ob-

jective was the right to vote and that upon rereading it, he had discovered "certain phrases I didn't understand."

The widespread confusion has arisen from:

The discovery that the bill permits enforcement of school integration, as well as the right to vote, by Federal court injunction.

The assertion by southern Senators that the bill contemplates the use of Federal troops to carry out integration decrees.

The tangled legal question of whether a nonjury trial of contempt cases arising out of violation of an injunction—as provided by the bill—is a deprivation of basic constitutional rights.

To take up these matters in order, how did the idea become so widely accepted that the bill's sole purpose was to fashion teeth for Federal right-to-vote laws?

VOTING RIGHTS STRESSED

In the first place, because the administration's civil-rights program in 1956 concentrated on voting rights. It asked Congress for legislation authorizing the Attorney General to bring injunction proceedings against anyone depriving, or threatening to deprive, a citizen of voting rights, guaranteed without distinction of race, in section 1971 of title 42, United States Code.

As for other civil rights, Attorney General Brownell, in his 1956 message to Congress, merely recommended that the proposed Civil Rights Commission study legislation authorizing the Attorney General to "initiate civil action where necessary" to protect such rights.

Thus, the idea became implanted that the administration was chiefly interested in guaranteeing the franchise. There was no specific mention of school integration.

When the administration submitted a draft of legislation last winter, that, too, contained no specific mention of school integration.

However, part III of the draft bill called for the addition of two paragraphs providing for injunctions, to section 1985 of title 42, United States Code. The pertinent part of section 1985, which derives from acts passed by Congress in 1861 and 1871, reads:

"If two or more persons * * * conspire * * * for the purpose of depriving, either directly or indirectly, any person or class of persons of the equal protection of the laws, or of equal privileges and immunities under the laws * * * the party so injured * * * may have an action for the recovery of damages."

By the Supreme Court's 1954 ruling, school segreation became a deprivation of equal privileges covered by section 1985.

Thus, the Federal power to control desegregation by injunction was inserted into the civil rights bill by reference.

In testimony before a Senate Judiciary subcommittee last February, Mr. Brownell made quite clear that the bill did provide such power, and was not limited to voting rights. But this attracted little notice at the time.

USE OF TROOPS IMPLICIT

What, then, of the Southern charge that the bill envisages the use of troops?

The power is in the bill—though again not stated explicitly. In the United States Code, 2 pages on from section 1985, is section 1993, which is derived from laws passed in 1866 and 1870. Section 1993 reads:

"It shall be lawful for the President of the United States, or such person as he may empower for that purpose, to employ such part of the land or naval forces of the United States, or of the militia, as may be necessary to aid in the execution of judicial process issue under sections * * * 1985–1992 of this title [42] * * *."

Thus section 1993—the use of troops—applies to section 1985, which now includes school integration as one of the equal privileges guaranteed by the Constitution.

Both school integration and the use of troops are in part III of the bill, and the prospect is that this part will be knocked out altogether.

Therefore the great struggle is likely to come over whether those who violate a court injunction against interference with voting rights should, or should not, have a jury trial in contempt proceedings.

The bill does not specifically mention what kind of a trial the accused shall have. But it empowers the Attorney General to ask for an injunction whenever "any person has engaged" or there is reason to believe he is "about to engage" in acts to deprive another of voting rights.

The reason that the United States in this way is made a party under the bill is found in section 3691, title 18 of the United States Code, which reads:

"Whenever a contempt charged shall consist in willful disobedience of any lawful writ * * * of any district court of the United States * * * and the act or thing done or omitted also constitutes a criminal offense under any act of Congress, or under the laws of any State in which it was done or omitted, the accused, upon demand therefor, shall be entitled to trial by a jury.

"This section shall not apply * * * to contempts committed in disobedience of any lawful writ * * * entered in any suit or action brought * * * in the name of * * * the United States."

Thus because the injunctive proceedings would be initiated by the Attorney General, cases of contempt would be tried without jury.

Supporters of the bill argue that there is nothing irregular or even uncommon about this, that contempt cases in equity proceedings—and they would be equity proceedings under the new bill—are usually tried without jury. They cite some 28 statutes permitting such nonjury trials for contempt, including the Sherman Antitrust Act.

Opponents of the bill contend the cases are not parallel. Suppose, they argue, that in an antitrust equity suit a judge finds that a monopoly exists and orders the company to sell a factory or divest itself of 100,000 shares of stock.

If the company refuses, it can be fined, or its officers jailed, in contempt proceedings for violating the judge's orders. But the officers cannot be tried and punished for committing a criminal act, because the refusal to sell is not a crime.

On the other hand, the bill's opponents argue, to deprive a citizen of the vote, or to conspire to prevent him from voting, is a crime under Federal law (for example, title 18, United States Code, secs. 241 and 242) and many State laws.

Contrary to equity procedure, the bill's opponents argue, the bill permits the court to issue injunctions against an act that is a crime. If Jones is enjoined from interfering with Smith's voting rights and does so, he will not only have violated the order but committed a crime. But he will be tried and convicted by a judge without jury for the contempt and not for the crime. This, they argue, is a deprivation of jury trial guaranteed by the Constitution.

DEATH OF MR. BARAK MATTINGLY

Mr. SMITH of New Jersey. Mr. President, I noted with great regret in this morning's newspaper the passing of an old friend of many of us on this side of the aisle, Mr. Barak Mattingly, ex-national Republican committeeman from Missouri.

I ask unanimous consent that the article, which appeared in the New York Times this morning, announcing Mr. Mattingly's death, be published at this point in the body of the RECORD in connection with my remarks.

Mrs. Smith and I desire to extend to his widow and the other members of Mr. Mattingly's family our deepest sympathy.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

BARAK MATTINGLY OF MISSOURI GOP—EX-NATIONAL COMMITTEEMAN DEAD—MEMBER OF GROUP THAT BACKED EISENHOWER

ST. LOUIS, July 18.—Barak T. Mattingly, attorney and former Republican national committeeman from Missouri, died in his home here today after a heart attack. He was 56 years old.

Mr. Mattingly was a leader in many Republican intraparty feuds in Missouri. Although he held no party post in recent years, he was regarded as the State's dominant Republican leader.

Starting as a GOP precinct worker 30 years ago, Mr. Mattingly rose to become an adviser to the Eisenhower administration. He was a member of the so-called Commodore Hotel group that induced General Eisenhower to seek the Presidency in 1952.

He served as treasurer of the original National Eisenhower for President group, which included such persons as former Gov. Thomas E. Dewey of New York, Attorney General Herbert Brownell and Henry Cabot Lodge.

Mr. Mattingly, who never sought public office, served as chairman of the Republican State Committee in 1937–39 and as Republican Committeeman from Missouri from 1940 to 1948. He was counsel for the national committee in 1948–49.

A strong supporter of Governor Dewey, he threw Missouri's votes to the New York leader in the 1944 and 1948 Republican conventions.

In 1948 he supported Roscoe C. Hobbs to be his successor on the National Committee. Mr. Hobbs lost to the late Howard V. Stephens in a bitter fight, but Mr. Mattingly soon regained the upper hand in Missouri Grand Old Party activities.

Mr. Mattingly also was a central figure in the recent party battles for control of Federal patronage in Missouri. His faction defeated others headed by A. D. (Bud) Welsh, formerly National Committeeman, and Elroy W. Bromwich, present Committeeman.

He had an extensive law practice as a senior partner in the St. Louis law firm of Lowenhaupt, Mattingly, Chasnoff, Freeman & Holland. He also was board chairman of Ozark Airlines and the Bank of Ferguson and a director of the Bank of St. Louis and other firms.

Mr. Mattingly, who was born in Eureka, Ark., attended Marvin College in Fredericktown, St. Louis University and the City College of Law.

He is survived by his widow and his mother.

THE PROS AND CONS OF ALLOWING COMMERCIAL BANKS TO UNDERWRITE STATE AND LOCAL REVENUE BONDS

Mr. WILEY. Mr. President, I have been pleased to receive from Mr. Bernard R. Hillenbrand, executive director of the National Association of County Officials, a reprint of a most helpful debate on a vital question which I know is of deep interest to my colleagues.

The question is, Shall commercial banks underwrite local revenue bonds?

One of the participants in the debate was our distinguished colleague from Pennsylvania [Mr. CLARK], whose long record of State and local service makes

him well qualified to comment on this subject.

The opposition viewpoint was likewise ably held up by Mr. T. Henry Boyd, vice president of Blyth & Co.

I need hardly remind my colleagues that State and local governments face the need today for an enormous amount of borrowed funds.

I commend this published debate to my colleagues, and I trust that the Senate Banking and Currency Committee will find it possible to give its early consideration to this subject.

I send to the desk the text of the reprint. To it, I append an article describing the controversy, as published in the Christian Science Monitor issue of July 16.

I ask unanimous consent that both these items be printed in the body of the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

BOTH SIDES OF A CONTROVERSIAL ISSUE: SHALL COMMERCIAL BANKS UNDERWRITE LOCAL REVENUE BONDS?—"YES," SAYS UNITED STATES SENATOR JOSEPH S. CLARK—"NO," SAYS INVESTMENT BANKER T. HENRY BOYD

A BETTER DEAL FOR STATE AND MUNICIPAL REVENUE BONDS

It won't come as news to the readers of this publication that States and local governments are being forced to pay more and more in interest charges on money required for public works. To help stem this trend, I have introduced a bill—S. 2021—which should result in the reduction of interest rates on State and municipal revenue bonds, thus saving the taxpayers millions of dollars. It is now pending before the Senate Committee on Banking and Currency.

S. 2021 would break what amounts to a monopoly by a few investment dealers on the underwriting of revenue bonds. It would accomplish this by opening up the competition to commercial banks—which have been so helpful in the marketing of general obligation bonds. Commercial banks would be authorized to underwrite (1) revenue bonds of a quality acceptable to the Comptroller of the Currency, and (2) short-term obligations of local public housing agencies when backed by State local contracts.

I was particularly pleased when the only two Senators who are former mayors of major cities joined me in sponsoring this bill, Senator FRANK J. LAUSCHE, former mayor of Cleveland, and Senator HUBERT H. HUMPHREY, former mayor of Minneapolis. Senators ESTES KEFAUVER (Democrat, of Tennessee) and WAYNE MORSE (Democrat, of Oregon) are also cosponsors.

Commercial banks are prohibited by the Glass-Steagall Banking Act of 1933 from dealing in bonds which are backed only by the earnings from governmental enterprises. But significant changes in the last 24 years justify a review of State and local bond financing needs, including this prohibition.

Today we are faced with an increasing volume of public improvement construction required to meet present and future needs. State and local governments must issue and sell in the competitive market public securities to obtain the capital funds to finance various public improvements, such as schools, hospitals, roads, water and sewer systems, housing, etc. In the past, the vast majority of public improvements were financed by general obligation bonds; that is, bonds which are secured by the general resources of the issuing State or locality. But today nongeneral obligation financing has amounted to about one-third of the total.

For example, in 1954, revenue bonds represented 46 percent of the total of new issues of State and local bonds. In the last 3 years alone, State and local governments have undertaken 438 issues of revenue bonds amounting to $4.1 billion. These issues involved all 48 States, Puerto Rico, and Hawaii.

In spite of the great increase in public projects, and in spite of the great increase of revenue bond financing, a limited number of investment dealers have a monopoly on the underwriting of revenue bond issues. As a consequence, a large share of the capital market is not now being tapped. The State and local governments are being deprived of the benefit of commercial bank participation of their required public financing.

The broader the market for public securities, the more assurance there would be that State and local governments would be able to obtain the lowest possible interest rates. The saving to the public can be illustrated by what happened in Kansas City, Mo., in 1954. In November the city offered a $5,875,000 issue of general obligation bonds. Twelve bids were received; the lowest interest rate was 1.728 percent. In October of the same year, Kansas City offered $12 million in first-class water revenue bonds, on which the commercial banks could not bid. Only four bids were received; the lowest interest rate was 2.449 percent. Allowing 30 points for the 12-year difference in the terms of the bonds, the revenue bonds still cost 0.4 percent more.

The New York City Housing Authority had a similar experience in 1956. It sold short-term obligations for both federally aided projects and State-aided projects. The interest cost to the authority for the State-aided type, where the banks could not bid, was over 0.4 percent higher than in the case of the federally aided type, where the banks could bid. There have been similar experiences in other cities and States.

I do not expect S. 2021 to have easy sailing. The principal opposition will come from the investment dealers who now enjoy the exclusive right to underwrite all public revenue bonds. One could hardly expect them to welcome competition. Actually, most underwriting is now being done by only a small number of dealer firms; in 1954, for example, 85 percent of the dollar volume of State and local nongeneral obligational bonds were purchased by underwriting syndicates organized and managed by only 20 dealer firms. The opponents of S. 2021 will doubtless point out that only about 100 of the country's 14,000 commercial banks are now active in underwriting general obligational bonds of State and local governments on a national scale, and probably not that many would engage in underwriting revenue bonds. It would be desirable if more would participate. But in any case this is hardly an argument against the bill. Any new competition is to the good, because wider competition is bound to bring savings.

Opponents of this bill have tried to conjure up a claim that the fiscal soundness of commercial banks would be placed in jeopardy. But this argument has no merit. The bill limits the underwriting operations to obligations which are of the same quality as those that the banks are authorized by existing law to purchase for their own accounts. Present limitations on the amount which the banks may invest in such obligations would not be affected. Furthermore, the high investment quality of revenue bonds has been adequately demonstrated. Many of them have a better rating than comparable general obligation bonds, and instances of default are as negligible in the one case as in the other.

It has been suggested that bank capital is not needed in public revenue-bond financing. In support of such suggestion, it has been said that there is no known instance where the lack of available dealer capital has been responsible for the abandoning of a project by a governmental authority. This is not the basic point. The merits of the need for S. 2021 cannot be fairly tested on the basis of whether bank capital is essential to any particular underwriting, the real test is whether bank participation would enable such loans to be made more advantageously at lower interest costs. The experience of States and municipalities in selling their general obligation bonds has proved that the broadest possible competition for such issues tends to lower financing costs. No matter who underwrites a particular bond issue, its marketability is better for having had the benefit of this broader competition.

I believe that the public interest requires the fullest possible play of free competition in supplying funds for public purposes. The bill I introduced, S. 2021, would, without violating the fiscal integrity of our banking system, lead to better financing opportunities for our State and local governments.

(About the author: Senator JOSEPH S. CLARK, Democrat, of Pennsylvania, was elected to the U. S. Senate November 6, 1956. Previous to this he served as mayor of Philadelphia. From 1949 to 1952 he served as controller of Philadelphia. He was a member of the Pennsylvania State Constitutional Convention and served as deputy attorney general of the State and did trial work in connection with closed banks. He serves on the Senate Banking and Currency Committee.)

A SUMMARY OF WHY WE OPPOSE COMMERCIAL BANK UNDERWRITING OF REVENUE BONDS

S. 2021 has recently been introduced in the Congress to amend section 5136 of the Revised Statutes of the United States (12 U. S. C. 24) so as to authorize commercial banks to engage in the business of underwriting and dealing in revenue bonds and certain other types of special obligations issued by States and municipalities. For almost 25 years—since the enactment of the Glass-Steagall Banking Act of 1933—commercial banks have been excluded from the business of underwriting or trading in securities with the limited exception of general obligations (payable from ad valorem taxes) of States and their political subdivisions, and with the exception of United States Government bonds and certain specialized federally sponsored securities. This proposed legislation would partially repeal this fundamental banking law.

The basic argument in support of this bill appears to be that it would result in lower interest rates. Particularly at this time of tight money, such a claim naturally has great appeal. Before it is endorsed as a solution to this difficult problem, however, a careful analysis should be made of its validity. We believe that such an analysis as well as a consideration of actual experience with both revenue and general obligation bonds, will show that the claim cannot be supported, and that permitting commercial banks to underwrite and trade in revenue bonds will have no appreciable effect on interest rates or the cost of money to States, counties, or municipalities. We further believe that it could lead to abuses which, in the end, might have a very serious adverse effect on our whole securities distribution system, with consequent reaction detrimental to public financing.

First, therefore, let us look at some of the factors that go into determining interest rates. These are fundamentally the characteristics and investment quality of the bonds themselves, and market conditions at the time they are offered. Among the most important market conditions are the demand for funds by borrowers on the one hand, and the supply of funds available from investors, on the other hand. At the present time and for some months past, the demand for funds from individuals and corporations has been so heavy in relation to the supply that interest rates have been bid higher and higher.

This trend has necessarily raised sharply the interest costs of States and municipalities, including their interest costs on general obligation bonds (which, of course, commercial banks have been and are now permitted to underwrite and trade in). Consequently, it is appropriate to pause a moment and ask the question: If underwriting by commercial banks would hold down interest rates on revenue bonds, why has it not prevented increases in the cost of borrowing on general obligation bonds? The answer, of course, is obvious—that commercial bank underwriting of general obligation bonds is not truly a factor which affects the interest rates of these bonds.

Basically, it is investors—the real consumers to whom bonds must ultimately be sold—whose demand fixes interest rates. These investors, made up of hundreds of thousands of individuals in the United States, as well as substantial institutions such as insurance companies, pension fund trustees, savings and loan associations, savings banks and commercial banks and trust companies, constitute the market for all kinds of securities. We do not mean to deprecate the importance of commercial banks, both as investors of their depositors' funds and as investors of trust funds. They are important factors in the money market. The point is, however, that they are factors in their capacity as investors, not as underwriters or dealers; this proposed legislation would not broaden in any respect their existing investment ability.

Next, let us look briefly at the function of the underwriter as distinguished from the investor. In effect, the underwriter who purchases bonds from a State, county, or municipality for distribution to the public acts primarily as a conduit from the issuer to the ultimate investor who buys the bonds from him. Although the mechanics of the operation are by purchase and resale, the underwriter in substance is merely rendering the economic service of providing a guaranteed distribution of bonds from the borrower to the many individual and corporate investors who ultimately provide the needed funds. Since interest rates or yields are determined primarily by the demands of these investors, the effect of competition among underwriters on a borrower's cost of money is limited to insuring to the borrower a coupon rate and price to the public which realistically reflect market worth of the particular bonds, and to its operation on the "spread" or compensation received by the underwriters for their services in assuming the risk of and in making the public distribution.

Effective competition among underwriters is therefore a significant factor, but if such effective competition already exists in connection with the distribution of any security, the introduction of a few additional underwriters into the competition will have a truly negligible effect on financing costs. Analysis of revenue bond financing experience in recent years indicates that there is in fact in this field truly effective competition among the over 600 investment dealers in all 48 States and the District of Columbia engaged in this business. These firms have ample capital—their own money, not that of depositors—and over 34,000 employees, of whom more than 13,000 are engaged in securities sales. No difference in the effectiveness of the competition among underwriters can be found between revenue bonds (which commercial banks may not underwrite) and general obligation bonds (which they are permitted to underwrite). This is underscored when we realize that investment dealers, not banks, underwrite nearly three-fourths of the State and municipal general obligation bond issues, and that over 80 percent of that portion which has been underwritten by commercial banks is concentrated in the hands of some 25 large metropolitan banks. These figures are based upon a careful statistical study which has been made of all State and municipal general obligation bond issues of $5 million and more in the period 1949–53. It should also be noted that the great bulk of the country's more than 14,000 commercial banks are properly interested only in banking, and do not engage in the securities business at all, even in the general obligation field open to them under existing law.

Why, then, if only a few banks are interested anyway, is the proposed broadening of bank underwriting authority such a bad thing? Even though it may have no appreciable effect on interest rates or cost of money to States, counties, or cities, why should it be opposed? The answer to this, in turn, can be found by briefly examining a chapter from banking history. Prior to 1933, the country's securities business was dominated by the great commercial banks operating largely through securities affiliates. The shocking abuses which were made possible by this combination of commercial and investment banking were first disclosed in Congressional hearings in 1931 which Senator Carter Glass described as "almost the most extensive hearings ever had on a banking measure." After the hearings, Congress enacted the Glass-Steagall Banking Act of 1933, to put an end to these evils and abuses, both actual and potential. The root of the difficulty was found to lie in the basic conflict of interest which exists between the exercise of the traditional banking functions of depository, trustee, investor, and lender on the one hand, and the conduct of the quite different business of underwriting, distributing, and selling bonds or other securities on the other. The solution reached by Congress was to require the separation of the businesses of commercial and investment banking. Protection of the public was shown to require such a divorcement.

The only exception which in 1933 Congress permitted to be made to this prohibition against bank underwriting was that of obligations of the United States Government and certain Government agencies, and of general obligations of States and their political subdivisions—a class of generally very high grade bonds. Banks were undoubtedly permitted to continue to underwrite even these general obligation State and municipal bonds only because of the fear (later proved groundless) that the elimination of the banks might leave insufficient underwriting and distribution strength for this class of vitally important top-quality bonds. What is proposed now by such bills as S. 2021 is to broaden this exception to include a large additional class of bonds which are generally of lower investment quality and of longer term than general obligations.

This bill is almost identical to others which died in committee during the last session of Congress. The magnitude of the effort which has been and is being put into this proposal indicates that it is only the first step in a longer range effort by the large banks to win again a dominant position in the underwriting of securities generally. As Senator La Follette truly observed in 1935 on the occasion of a somewhat similar effort by the large banks to expand their underwriting authority: "It is the nose of the camel under the tent * * *. If we take this step, next year we shall have half the camel under the tent, and the next year after that we shall have the camel in the tent, and the next year after that we shall be right back where we were in 1929."

In conclusion, it should be emphasized that investment dealers do not fear fair competition on any equal basis. They do, however, fear dominance by organizations with almost unlimited economic power—a dominance which eventually leads to monopoly. They have not forgotten the rise of the giant commercial banks in the investment banking business during the 1920's. Their huge resources, derived largely from deposits of other people's money, as well as the multiplicity of functions which they could exercise, enabled them and their securities affiliates to gain a high degree of control over the capital markets of the Nation. This control was only eliminated by the separation of commercial and investment banking functions affected by the Glass-Steagall Banking Act. We feel that no adequate reason has been shown for turning back the clock and relaxing to any extent whatever the restrictions imposed by this fundamental banking reform.

(About the author: Mr. T. Henry Boyd is the vice president of Blythe & Co., Inc., a New York City investment banking firm. He also serves as chairman of the committee for study of revenue bond financing. In the investment banking business since 1919, he has been with Blythe since 1921 and a vice president since 1938. A director of Iron Fireman Manufacturing Co., he is also a member and former president of the Municipal Bond Club.)

[From the Christian Science Monitor of July 16, 1957]

INVESTMENT INTERESTS VIE ON CLARK'S BILL

(By Barrow Lyons)

(Second of two articles on bills before Congress dealing with the marketing of tax-exempt State and municipal securities.)

WASHINGTON.—Controversy has broken out in Washington, and in the financial press, over the merits of a bill introduced May 8 by Senator JOSEPH S. CLARK, Democrat, of Pennsylvania, to permit commercial banks to underwrite and deal in revenue bonds of States and municipalities. On one side of the argument are some of the large commercial banks. They are lined up with the American Municipal Association, the United States Conference of Mayors, and State-municipal organizations, including the Pennsylvania League of Cities.

Senator CLARK has more than an academic interest in his measure, because as mayor of Philadelphia, he experienced the problems of financing city improvements. Cosponsors of his bill—S. 2021—are two Senators who also were mayors, FRANK J. LAUSCHE, former mayor of Cleveland, and HUBERT H. HUMPHREY, former mayor of Minneapolis, Senators ESTES KEFAUVER and WAYNE MORSE are also cosponsors.

Opposing the bill, and most strenuously, is the investment banking industry, today comprising virtually the only underwriters of State and municipal securities. Their most vocal spokesman is T. Henry Boyd, vice president of Blythe & Co., Inc., a top-ranking New York City investment banking corporation. Mr. Boyd is chairman of the Committee for the Study of Revenue Bond Financing, and formerly was president of the Municipal Bond Club.

Senator CLARK'S bill today is sleeping, somewhat restlessly, in the Senate Banking and Currency Committee, graveyard of many measures that would improve or tamper with our banking and monetary system.

BOTH SIDES POTENT

The arguments for and against the bill both have considerable potency. To form an opinion as to which is most meritorious requires something most people would call financial sagacity. We merely outline the arguments here.

Commercial banks already have the privilege of underwriting State and municipal bonds of high grade, based upon the general resources of these political entities. What some of them now want is the power to underwrite issues for resale to the public of revenue bonds, securities not supported by the general resources of a political unit, but based solely upon the revenue collecting ability of the public works for the construction of which the money was borrowed.

Such structures include toll highways, bridges, tunnels, waterworks, sewage disposal systems, electric power systems, ferries, gas works, port development, and most recently, school building authorities. In recent years nongeneral obligation financing has mounted to about one-third of the total in this field.

In the past 3 years alone, State and local governments have undertaken 438 issues of revenue bonds amounting to $4.1 billion. Senator CLARK's own State has floated the largest number of issues—71 amounting to $334 million.

DEFENSE OUTLINED

In defense of his measure he told your correspondent:

"Today we are faced with an increasing volume of public improvement construction required to meet present and future needs. State and local governments must issue and sell in the competitive market funds to finance projects as various as hospitals and sewers. In spite of the great increase in public projects, and the great increase in revenue bond financing, a limited number of investment dealers have a monopoly on the underwriting of revenue bond issues.

"As a consequence, a large share of the capital market is not being drawn upon to supply funds required by States and cities. The State and local governments are being deprived of the benefit of commercial bank participation in their required financing."

But the principal argument Senator CLARK presents is that, if the commercial banks were permitted to enter this field of underwriting, interest rates would be shaved appreciably, and States and cities would get a better deal.

"The saving to the public can be illustrated," he explained, "by what happened in Kansas City, Mo., in 1954. In November the city offered a $5,875,000 issue of general obligation bonds. Twelve bids were received; the lowest interest rate was 1.728 percent. In October, same year, Kansas City offered $12 million in first-class water revenue bonds, on which commercial banks were prohibited by law from bidding. Only four bids were received; and the lowest interest rate was 2.499 percent. Allowing 80 points for the 12-year difference in the terms of the issues, the revenue bonds still cost 0.4 percent more—and when you talk about millions that is a considerable amount. I could cite other instances."

MONOPOLY CITED

On the monopolistic side of the story, Senator CLARK asserts that in 1954, 85 percent of the dollar volume of State and local nongeneral obligation bonds were purchased by underwriting syndicates organized and managed by 20 dealer firms. The fact that only about 100 of the commercial banks are active in underwriting State and municipal bonds is no argument against his bill, he says, adding:

"Any new competition is to the good, because wider competition is bound to bring savings. Opponents of this bill have tried to conjure up a claim that the fiscal soundness of commercial banks would be placed in jeopardy. But the bill limits the underwriting operations to obligations which are of the same quality as those that the banks are authorized by existing law to purchase for their own accounts. In fact, many of them have a better rating than comparable general obligation bonds, and instances of default are as negligible in the one case as the other.

"The real test is whether bank participation would enable such loans to be made more advantageously—at low interest costs."

As to the danger to bank integrity, Mr. Boyd, writing for the June issue of the County Officer, publication of the National Association of County Officials, had this to say:

"The magnitude of the effort which has been, and is being, put into this proposal indicates that it is only the first step in a longer range effort by the large banks to win again a dominant position in the underwriting of securities generally."

SEES 1929 PERIL SHAPING

"As Senator La Follette truly observed in 1935 on the occasion of a somewhat similar effort by the large banks to expand their underwriting authority: 'It is the nose of the camel under the tent. * * * If we take this step, next year we shall have half the camel under the tent, and the next year after that we shall have the camel in the tent, and the next year after that we shall be right back where we were in 1929.'"

He referred to the general activity of some of the large commercial banks in selling securities, some of which showed great weakness.

"It should be emphasized," continued Mr. Boyd, "that investment dealers do not fear fair competition on any equal basis. They do, however, fear dominance by organizations with almost unlimited economic power—a dominance which eventually leads to monopoly. They have not forgotten the rise of the giant commercial banks in the investment banking business during the 1920's.

"Their huge resources, derived largely from deposits of other people's money, as well as the multiplicity of functions which they could exercise, enabled them and their securities affiliates to gain a high degree of control over the capital markets of the Nation.

"This control was only eliminated by the separation of commercial and investment banking functions effected by the Glass-Steagall Banking Act. We feel that no adequate reason has been shown for turning back the clock and relaxing to any extent whatever the restrictions imposed by this fundamental banking reform."

Senate staffs associated with members of the Senate Banking and Currency Committee say the bill is not likely to have hearings, or get out of committee, during this session. Perhaps next session it will get public airing.

On the other hand, the bill of Representative THOMAS B. CURTIS, Republican, of Missouri, which would make it possible to set up mutual funds invested chiefly in State and municipal bonds, appears to have an excellent chance of passing the House; and since it has the support of the Eisenhower administration, it is believed that it might get through the Senate.

PRESIDENTIAL PRESS CONFERENCE CONCERNING KREMLIN LEADERSHIP

Mr. FULBRIGHT. Mr. President, there have been some remarkable Presidential press conferences in our time, but I daresay none has been more remarkable than the one held on July 17, 1957.

The passages of that conference dealing with the civil-rights bill, so called, have already been adequately dealt with. But, I wish to draw the attention of my colleagues, and of the American people, to a passage concerning President Eisenhower's friendship with Marshal Zhukov.

Mr. Edward P. Morgan, of the American Broadcasting Co., asked a question about the flexibility of the Kremlin leadership and whether the President would consider inviting 1 or 2 of the leaders to visit him in the United States.

I ask unanimous consent to have printed at this point in my remarks the full question and answer of the President from the transcript of the press conference.

There being no objection, the question and answer were ordered to be printed in the RECORD, as follows:

Mr. MORGAN. My question is, sir, whether you think this Kremlin leadership is indeed somewhat more flexible, and if so, would you consider sometime in the future inviting 1 or 2 of them to the United States?

Answer. Well, it is a rather long and involved question, but I think I can get at it fairly simply in this way:

Certainly, the changes in the Kremlin are the result of some fundamental pressures within the country. Now, apparently the group that went out were those that were, could be called, the traditionalists. They were the hard core of the old Bolshevik doctrine, whereas those that stayed and seem now to be in the ascendancy are apparently those who have been responsible for decentralization of industrial control, all that sort of thing.

Therefore, the idea that they are trying to be flexible to meet the demands, the aspirations, requirements of their people, I think seems to be sound. Now, you referred to General Zhukov, and I must say that during the years that I knew him I had a most satisfactory acquaintanceship and friendship with him. I think he was a confirmed Communist.

We had many long discussions about our respective doctrines. I think one evening we had a 3-hour conversation. We tried each to explain to the other just what our system meant, our two systems meant, to the individual, and I was very hard put to it when he insisted that their system appealed to the idealistic, and we completely to the materialistic, and I had a very tough time trying to defend our position, because he said:

"You tell a person he can do as he pleases, he can act as he pleases, he can do anything. Everything that is selfish in man you appeal to him, and we tell him that he must sacrifice for the state."

He said, "We have a very hard program to sell." So what I am getting at is, I believe he was very honestly convinced of the soundness of their doctrine and was an honest man. Now, since that time I have had very little contact with him, meeting him only in Geneva, as you know, so merely because he is there would not, in itself, create a reason for a meeting between us of any kind, although, as I say, there is a history of past good cooperative effort between us in Berlin.

Mr. FULBRIGHT. Later in the interview Mr. Reston of the New York Times returned to this subject. He was seeking to clarify the President's answer to Mr. Morgan's question, which had left the impression that the President had had difficulty in answering the Communists' theories as to the superiority of the communistic system over the democratic system.

I ask unanimous consent that Mr. Reston's question and the President's answer be inserted at this point in my remarks.

There being no objection, the question and answer were ordered to be printed in the RECORD, as follows:

Q. Do you want to leave the inference that it is difficult to defend the proposition that democracy is a more idealistic system than communism?

A. Well, I said this: I said when you are talking with the Communists you find it is a little difficult for the simple reason that you say a man can earn what he pleases, save what he pleases, buy what he pleases

with that. Now, I believe this, because I believe in the power for good of the, you might say, the integrated forces developed by 170 million free people. But he says that "We say to the man 'You can't have those things. You have to give them to the state,'" and this is idealistic because they ask these people to believe that their greatest satisfaction in life is in sacrificing for the state, giving to the state.

In other words, he takes the attitude that they don't force this contribution, they are teaching a people to support that contribution. So, when you run up against that kind of thing, look, Mr. Reston, I think you could run into people you would have a hard time convincing that the sun is hot and the earth is round. I don't say that I don't believe it. I am merely saying that against that kind of a belief you run against arguments that almost leave you breathless, you don't know how to meet them.

Mr. FULBRIGHT. An American can, in the words of the President, "earn what he pleases, save what he pleases, buy what he pleases," and Marshal Zhukov says the Communists "ask their people to believe the greatest satisfaction in life is to sacrifice for the state" voluntarily. These arguments by Zhukov, in the words of the President "almost leave you breathless, you don't know how to meet them."

Mr. President, if we are to invite the Russian leaders here for a visit, I hope someone will brief the President on some answers to Zhukov's arguments and inform him about some of the values of our free system of society other than the freedom to buy whatever gadget appeals to us at the moment. Bread and circuses are not yet the dominant characteristics of our country.

It may be that the President does understand the human and the spiritual values which our political system is designed to protect, and that his trouble is only that he has difficulty in expressing himself. If this be so, I suggest someone assist the President in his press conferences, because statements such as he made on Thursday give the Communists material for propaganda of immense value to them.

Mr. President, with the hope that someone near the President may read it, I ask unanimous consent to have printed in the RECORD an article by Edward Crankshaw taken from the London Observer of July 7. This article will supply some reasons why a democratic system is preferable to the communistic. It also presents an extremely interesting and distressing account of the tragedy of Hungary.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

TESTAMENT OF NAGY—TWICE-SACKED PREMIER TELLS HOW HUNGARY WAS DRIVEN TO REVOLT

(At a time when a great upheaval is taking place in the Soviet Party leadership, the voice of Imre Nagy, the fallen Communist Premier of Hungary, sounds from obscurity to tell the world how men are made and broken behind the facade of a supposedly monolithic dictatorship. His testament, smuggled out of Hungary last week and analyzed below by Edward Crankshaw, could not have appeared at a more timely moment.)

On November 1 of last year the Hungarian Communist, Imre Nagy, found himself a world hero. He was the eternal David, hurling defiance at Goliath. Prime Minister for a week, he had been called to leadership by a small nation in anguished revolt against the might of Russia; and on that incredible Thursday he went to the microphone to proclaim the sovereign independence and neutrality of a Soviet satellite, and to announce the withdrawal of the Soviet Army.

Three days later the Russians were back again in force. While the people of Budapest fought Soviet tanks with their bare hands, Moscow installed a new Prime Minister, Janos Kadar, and Nagy went to ground in the Yugoslav Embassy. When he came out again on November 21, under safe conduct from the Kadar government, he was immediately arrested by the Russians and spirited away to Rumania. Since then nothing has been heard of him.

PARTY CORRUPTION

But now, smuggled out of Hungary, we have his political testament. It is not the story of the October days. It was written in 1955 and early in 1956, months before the Hungarian revolt. But it gives, from the inside, the background to the Hungarian revolt, seen from a party point of view. It is a prophecy and a revelation. And it has a peculiar flavor and a special value because it is not addressed to the West. It is addressed to all men of good will in the Hungarian Workers' Party—the Hungarian Communist Party, in effect.

Western denunciations of the Rakosi regime have always been suspect. But Nagy, one of his country's leading Communists, now confirms in detail all that was ever written in the West by responsible critics. And he adds a good deal more besides. In his attack on his formidable rival, Matyas Rakosi, who ran Hungary with a grip of iron for so many years, he not only paints a picture of total corruption inside the party and of a nation driven to breaking point, but also reveals that as early as 1953 the Russians themselves, and Khrushchev above all, were seriously worried about the way Hungary was going. That was only 3 months after Stalin's death.

HOUR OF GLORY

The key to the testament is the initiation and subsequent abandonment of the famous June Road, the new policy of comparative liberalism which was proclaimed in a party resolution of June 1953, in an attempt to save Hungary from bankruptcy and breakdown.

In July Nagy became Prime Minister for the first time. He lasted until April 1955, when he was finally deprived of his party and government offices. But it had been clear for a long time before this that his grip had been slipping. And in December 1955, he was formally expelled from the party for rightwing deviationism, and not brought back until the revolt of October 1956, when he had his brief hour of glory.

Then, for a moment, it looked as though he might turn out to be a Hungarian Gomulka. But he was not a Gomulka. He was simply a decent man who was also a devoted Communist; and on every page of this long testament there is the stamp of mediocrity.

Gomulka made his name and his position by standing up to Moscow. Nagy, on the contrary, owed his great chance, in June 1953, to Moscow. And he muffed it. He allowed Rakosi, Gero, Revai, and Farkas, the dictatorial foursome, as he calls them, to outmaneuver him and to sabotage his policies. This document is his account of what happened and, written in the wilderness, his bid to make a comeback.

REVOLT FORESEEN

It runs to 300 typed pages. It is called In Defense of the Hungarian People. It would have been better had it been called In Defense of Imre Nagy. It is not a denunciation either of communism or of Soviet domination. And although it attacks most bitterly Rakosi and the foursome, it spends far too much space pleading for Imre Nagy. He wrote it to present his case to the central committee of the party—and also, it is clear from internal evidence to the Soviet leadership in Moscow.

Reading it, Nagy's colleagues were to decide who was the better man, the better patriot, the better statesman, the better Communist—Nagy or Rakosi. But the comrades never read it. Rakosi saw to that by getting Nagy summarily expelled from the party without giving him a chance to present his case. Moscow, by that time, must have given up any hope it had that Nagy was strong enough to carry out the policies with which it sympathized.

Anyone who still thinks the Hungarian revolt was a put-up job will think so no longer after reading this document. Nagy foresaw it. The Russians foresaw it as early as 1953. Before the June meeting of the Hungarian central committee in Budapest there was a conference in Moscow at which the Russian leaders said many hard things about Rakosi and prophesied woe for Hungary unless the Hungarian comrades mended their ways.

"The key to the full realization of the historic significance of the Central Committee's June resolution may be found in the recognition of the extremely dangerous situation which arose in June," writes Nagy. "This shocking situation was characterized by the key members of the Soviet Communist Party, who declared that the mistakes and crimes of the four-member party leadership in Hungary, headed by Rakosi, had driven the country to the verge of catastrophe, shaking the people's democratic system to its foundations, so that unless prompt and effective measures had been taken to bring about a change the people would have turned against them. In the words of Khrushchev: 'We should have been summarily booted out'."

The prompt and effective measures were the inauguration of the celebrated June Road sponsored by Nagy, whose elevation to the premiership was approved by the Soviet Government. The greater part of Nagy's narrative consists of a detailed description of conditions before June 1953, and an exposure of Rakosi's persistent, subtle and effective sabotage of his efforts to implement the new policies. The fact that this narrative is written in Leninist jargon and is aimed not at the western reader but at all Communists of good will, in an effort to refute the deadly charge of rightwing deviationism, lends to the document a strange air of mingled farce and pathos.

The Russians had no illusions about Rakosi. But they needed him. In 1953 they were telling him that he really must give up some of his functions. He was then Prime Minister of Hungary, as well as first secretary of the Hungarian Party—a dual function which, in the Soviet Union, had come to an end with the death of Stalin:

"At this conference Comrade Malenkov pointed out that, in May 1953, they had discussed with Matyas Rakosi personal problems involved in the separation of party and state leadership. 'We asked, whom do you recommend as your deputy? He could name no one. He had objections to everyone whose name was mentioned; he had something against everyone. Everyone was suspect except him alone. This appalled us very much,' said Comrade Malenkov. Comrade Molotov declared that Matyas Rakosi had said he did not want to be Premier; 'but he wanted a Premier who would have no voice in the making of decisions.' Comrade Khrushchev noted that: 'The matter at issue is that the leadership of the party and the state should not be concentrated in the hands of one man or a few men; this is not desirable.'"

Does Khrushchev still feel like this?

RAKOSI'S SABOTAGE

So, as a result of that conference, Nagy was made Prime Minister. But Rakosi from the beginning set about sabotaging Nagy's new course. The Russians saw this, too:

"By the end of 1953 and at the beginning of 1954 it had already become evident to the Soviet comrades, too, that there was opposition to the June resolutions, and for this they blamed primarily Rakosi. Comrade Malenkov said: 'The faults we noted in June are being remedied very slowly. Rakosi has not taken the lead (Rakosi, of course, was still the party secretary) in remedying the faults.' Comrade Khrushchev noted too; 'Gerö has no self-criticism or sense of responsibility for the serious mistakes of the economic policy.' "

Later they were more explicit. At a conference in May 1954, when Nagy was still Prime Minister, Khrushchev declared:

"In Hungary a true collective leadership has failed to develop because Rakosi is incapable of working collectively. * * * He has lost the self-confidence required to correct mistakes, and it can happen that proper leadership will come into being over his head, which is a catastrophe for a leader."

And again: "During our visit preceding the Third Party Congress, the Soviet comrades emphasized that 'Comrade Rakosi must take the lead in the fight to correct previous mistakes and to implement the resolutions of the Central Committee. He must put a final end to the mistakes of the past, bravely, manfully, and like a Bolshevik. He does not have to put the blame on Beria, the international situation, or anything else. Rakosi must promote party unity by fighting consistently against mistakes. * * * The party leadership needs Comrade Rakosi, but he must know and realize that he will have to merge into the collective leadership because that is the only way in which he can do his work well'."

POCKET STALIN

But all that did not prevent Rakosi from coming back and putting Nagy out—until the people rose against him, as Khrushchev had once prophesied. One of the most valuable and interesting aspects of this document is the light it throws on the relations between Moscow and the foreign Communist Parties—and the strange limitations of the Kremlin's overlordship.

Rakosi was a pocket Stalin, and the Russians knew it. They brought themselves to the point of making him give up the Premiership—and then allowed him, knowing quite well what was going on, to break Nagy, first by sabotage, then by false accusations. They deeply criticized Rakosi for blaming the Rajk trial on the chief of police, Peter Gabor, and kept on insisting that he should himself confess to his own complicity in illegal arrests.

They hoped he could find some way to do this and at the same time save face. But until July 18 of last year he remained first secretary, with Nagy still in disgrace; and, when Rakosi finally went, he was replaced by the man with whom he had for so long been hand in glove, Erno Gerö.

THE AVALANCHE

Then came the avalanche. An avalanche which, Nagy now reveals, had been feared by the Russians for 3 years. "The Party leadership needs Rakosi * * *," Khrushchev had said. And perhaps that is the simple answer. Natural leaders are not easy to come by. Imre Nagy in every page of his book shows that he was no leader at all, no match for Rakosi. So we find the Russians faced with a dilemma of power: they must delegate their authority, and for this they need a strong man. But the strong man is hard to control.

As for the state of Hungary under Rakosi—Nagy's exposure is as complete as the severest critic might wish. He draws a picture of economic chaos, financial bankruptcy and almost total corruption. He wanted to overcome these things, and did his best. When he inaugurated the "June Road" he found a terrifying situation:

"Since June 1953," he says, writing in 1955, "for almost 2 years the entire labor force of the country has been working to correct the serious damage brought about by the 'leftist' exaggerations in all branches of the national economy. The party and the state leadership, headed by Matyas Rakosi, cost the nation 2 years of intensive work—this looked at from a purely financial point of view. It can be calculated, and it must be calculated, what this means in billions of forints. But who can judge in figures and in billions the political, cultural, and moral damage which was caused by the party to the nation?"

ECONOMIC LUNACY

He is attacking the heavy industry program of the Rakosi government—but Rakosi was trying to please the Russians—which had brought the country to bankruptcy and almost total disaffection:

"They promised that during the period of the first 5-year plan they would raise the living standards of the workers by 50 percent. In fact between 1950 and 1954 industrial production expanded from 150 to 300 (1938 being 100); but living standards decreased until 1953—and then began to increase, by 15 percent, as a result of the new policies."

Productivity had increased by 63 percent, he goes on, but wages remained at the 1949 level. As for agriculture, the situation was catastrophic. Not only was there a fall in the livestock population but in the spring of 1953 a million acres, more than 10 percent, of the cultivable land, went untilled—all this as a result of the enforced collectivization, which was resisted by the peasants in the only way they knew.

Here, finally exposed, and in the most authoritative manner, is the true story of the state of Hungary which led to the October revolt. The chapters on economic lunacy and the corruption of party and police are enlightening in the extreme. But the greatest value of the document is the light it throws into the darkest corners of inner party politics in the Communist world.

Mr. FULBRIGHT. Finally, Mr. President, I should like to quote a single paragraph from a recent lecture by Walter Lippmann, dealing with the vast problems we face, and delivered at the University of Minnesota. The paragraph reads as follows:

It will not be good enough to have good nerves, though we shall need them. We shall have to have knowledge of what is going on around us. We shall have to understand what we know.

In addition to the relevance of this paragraph to the President's ability to lead the Free World in its contest with the Communists, the entire article is well worth reading; so I ask that it be printed in the RECORD at this point.

I ask, Mr. President, that the two articles which make up the single lecture be printed at this point in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

DEATH OF AN ILLUSION

(By Walter Lippmann)

(The first of two articles in which America's most distinguished and influential journalist lucidly analyzes the world's problems and discusses his country's role in solving them.)

I can tell you in a word where we are now. We are in the midst of making up our minds. We are in the midst of the business of finding out where we actually are, of trying to understand a world situation which is very new and is in large part hidden by censorship or obscured by propaganda. No one, I think, not even at the top of affairs and therefore on the inside of all the available information, can as yet see clearly, can as yet see as a whole, where we really are and where we ought to go.

I was speaking about this the other day to a friend of mine who works in the Government on the making of foreign policy. "We are rewriting the book," he said, "but we are still somewhere about chapter 3, and we don't know yet what is going to happen to the hero, to the girl, or to his rival. We know that he and the girl are going to have many ups and downs and we have no guaranty that they will be married and live happily ever after."

Everyone knows, of course, that we are in a time of rapid, radical, and complicated change. Now, in itself, change is far from being a new experience for the generation to which I belong. We have lived amidst great events for which we were unprepared. We have become involved in wars which we expected to stay out of. We have hoped for great things from victory, and we have never seen a good peace. But now, if I may put it that way, the world is changed for Americans, not only in the degree of our involvement with the outer world, but in the very kind of our involvement with the rest of the world.

NO LONGER ONE WORLD

Throughout the 19th century and during the two World Wars of this century, we have thought that we were living in one world. We have thought that this world had its political center in the western society, the society which consists of Europe and the Americas, the society to which we belong.

Even the most anti-imperialistic among us has assumed this. We have supposed that all the nations—the old ones who were breaking with the past, the new ones who were emerging from colonial status—would have the same fundamental political ideals which we have, not because they are our ideals but because these ideals are universal. We have believed all mankind would move toward the same rules of law that we believe in, that they would arrive at essentially the same conception of the rights of man that we have, and that all the new nations would eventually develop the same democratic and parliamentary institutions we have.

This picture of ourselves and of our place in the world and of our role in the history of mankind is no longer valid. The culture, the ideology, of the Western society is no longer recognized as universal. It is challenged, as it has not been challenged since Christendom was challenged by the expansion of Islam.

The one world which we have always taken for granted in our thinking has been succeeded by many worlds. We now live amidst these many worlds. They compete with one another, they coexist with one another. They trade with one another and, in varying degrees, they cooperate with one another.

This change from one world to several worlds is a deep change. It is a change not only in what we think about our foreign policy but in the very way that we have to think about it. In our political thinking, that is to say in the thinking of the Western World, it is a change comparable with the change from the Ptolemaic to the Copernican astronomy, from the view that this earth is the center of the universe to the view that this earth is only a planet in its solar system. The Western society which was once the center of the political universe is now only a planet, a big planet, no doubt, but still a planet in a much larger solar system.

It is this new situation which we are trying to understand. It is in this new situation that we are trying to get our bearings and to feel our way forward.

But in order to do this, we must first look back and see how United States foreign policy was until very recently controlled by the underlying conception of the 19th century—the conception of one world whose political center was in the North Atlantic region of the globe.

In the First World War we were drawn in when Britain and her ally, France, were threatened with defeat. We were no longer able to remain isolated from Europe and unentangled in the wars of Europe, as we had been during the 19th century. But how were we drawn into the First World War? We were drawn in to reinforce Great Britain. We were the auxiliaries and the reserves. We called ourselves an associated power; and our troops fought in Europe under a supreme commander who was a French general and our Navy was under the overall command of the British admiralty.

THE ATLANTIC COMMUNITY

When the war ended in 1918, we hoped and believed that we had won a victory for the idea that the principles and ideals of the Western society are universal. Woodrow Wilson proclaimed a world order. But it was a world order based on our Western principles and ideals. Moreover, it was to be an order in which the nations of the North Atlantic region would continue to be the political leaders of mankind.

On the surface, there was in 1918 much to justify this optimistic view. The North Atlantic community had won a smashing military victory, and the United States had emerged as a new and powerful member of the Western society. Russia was still a primitive country in the throes of a deep social revolution. China was a feeble and backward country, divided up among foreign powers, India was still under British rule. North Africa, the Middle East, and southeast Asia were under British or French imperial dominion. On the surface, in Woodrow Wilson's time it looked as if Britain and France, reinforced by the United States and Canada, could prolong indefinitely the world order that had existed in the 19th century.

We now know that this was a brilliant illusion. Both France and Britain were profoundly weakened by their fearful losses in the First World War. As representatives of the Western philosophy, they were challenged as imperialists over all Asia and Africa. We did not know this in 1918. We took it for granted that with American military and financial help the worldwide predominance of the Atlantic community would continue.

In the Second World War, the role played by the United States was no longer that of an associated power bringing up the reinforcements and the reserves. But before Pearl Harbor and before we actually entered the Second World War, we still thought of ourselves in terms of the First World War. We used to talk, you may remember, about aiding the Allies to defend America. In fact, however, it was soon plain that we must take up the whole burden of the war in the Pacific, including the defense of Australia and of New Zealand. In Europe, the French Army had been defeated and Great Britain was under violent assault and strained to the limit. We had not only to supply the weapons and other economic necessities, but we had to raise a great army ourselves.

The difference between the two world wars is marked by the fact that in the second, as distinguished from the first, the supreme commanders on sea and on land were Americans. Nevertheless, until World War II ended, we could still believe—perhaps I should say that we tried still to believe—that as and when Britain and France and Western Europe recovered from the damages of the war, the North Atlantic community would still be the political center of the world.

I venture to believe that in the last analysis this was the underlying assumption in the minds of both Churchill and Roosevelt at the close of the war. They believed that with Britain and America acting as partners, they could handle Russia and have the deciding voice in the postwar settlement. They were mistaken.

The fact of the matter is that Churchill himself was so big that he made the British power look bigger than it was. It soon appeared that Britain, though it was a great power by the old standards, was not, like the United States and the U. S. S. R., a superpower. It was soon evident that in the postwar world the Atlantic community, with the British-American partnership at its core, was no longer the paramount power in the world.

Since the war we have found ourselves in a position different from any in our whole previous political experience. We are no longer members of a world order which is accepted by mankind as universal. There are other world orders which challenge ours and compete with it. What is more, throughout our history as a nation, the center of world power has been in the North Atlantic region of the globe, and the fundamental decisions of our foreign policy have had to do with our relations in the North Atlantic, particularly our relations with Great Britain.

We achieved our independence amidst the rivalry of the North Atlantic powers. We developed this continent in security behind the supremacy of the British power. We fought the First World War as the auxiliary of the Atlantic powers. We fought the Second World War as the leading power of the Atlantic community. Now this is fundamentally altered. The greatest powers with which we have to concern ourselves are no longer in the North Atlantic region. They are in Eastern Europe and in Asia. While the welfare of the Atlantic community is a close and vital interest of the United States, the Atlantic community is no longer the political center of the world. We are living amidst the decline of Britain as one of the leading powers of the world, and we find ourselves without a powerful ally in the face of the new powers of Eastern Europe and of Asia and of Africa.

FINDING OUR BEARINGS

To dramatize the rapid changes in the past 100 years, we might say that through most of the 19th century the world capital was London. After the First World War, the world capitals were London and Washington. After the Second World War, the world capitals were Washington, Moscow, and London. Now the world capitals are Washington, Moscow, London, Peking, New Delhi, and, who knows, perhaps eventually also Cairo.

I said earlier, and I must say again, that we are in a wholly new situation. It is not a clearly visible situation with all its landmarks and features well defined. There are no reliable maps. This is, in part, because so much of the world is hidden by censorship and obscured by propaganda. But another reason, and perhaps a more compelling reason, why there are no reliable maps is that so much of the world is in the midst of revolutionary changes of which we cannot foresee the outcome.

Nevertheless, we must try to find our bearings, to find out where we are and what is around us. And one way to do this is to look back and to remind ourselves where we came from and how we got where we are.

We must, I think, go back about 12 years, to the winter of 1945, when Roosevelt and Churchill were on their way to Yalta in the Russian Crimea. The end of the world war was in sight. They were on their way to Yalta in order to negotiate with Stalin about the armistices which would end the fighting. As we all know, they did not reach an agreement on what should be the terms of the peace treaties with the two powerful enemies they expected soon to defeat. But they did agree on the general terms of the armistices they expected to make with Germany and with Japan.

THE ARMISTICE DIVISION

I hope I can say what I have to say here about Yalta without entering into and stirring up again the furious controversy which has raged about it ever since. The point about which there cannot be serious dispute is that Yalta was followed in May by the German armistice and in August by the Japanese armistice. Now, an armistice is essentially an agreement, first to stop shooting, and then it is an agreement as to where the armed forces are to stand still. In substance, the armistices of 1945 reflected and registered the military situation as the Big Three at Yalta expected it would be when the fighting ended.

The lines of the armistices of the Second World War are what we have since come to know as the line of the Iron Curtain. The Iron Curtain is where the Red army settled down when the fighting stopped. This line still divides Germany. It still divides Europe. And in Asia the line which now divides the Communist from the non-Communist powers is essentially the line of the American occupation at the time of the cease fire. At that time the American forces were in effective control of the islands, foremost among them Japan and Formosa. They controlled the Pacific Ocean up to the shores of eastern Asia. But they did not have effective control on the mainland of China. And although American forces occupied South Korea, their occupation was regarded as temporary.

This, then, was the situation of the postwar world as it took shape from the armistice lines. Today we are living amidst the breakup and the distintegration of this postwar world.

THE CRUMBLING ALLIANCES

(By Walter Lippmann)

As I was saying, we are living today amidst the breakup and the disintegration of the postwar world as it took shape from the armistice lines. The question I should now like to discuss is how this disintegration started, and what caused this breakup.

As a result of the Yalta Conference, the world was divided into two great spheres of influence. In the one sphere, where the Soviet Union was supreme, Stalin tried to create a new Russian Empire. This Empire was founded primarily on the power of the Red army. In fact, the Empire was the territory occupied by the Red army. Stalin's purpose was to make the people of Eastern Europe docile satellites or colonies of the new Russian Empire.

The other sphere comprised the rest of the world. It was an unorganized collection of old and new States. It consisted not only of Western Europe, Latin America, and the United States, but also of the old European empires which then extended across north Africa, Egypt, and the Middle East, through India, and southwest Asia to the Dutch Empire in Indonesia. In this sphere, the United States took the initiative in trying to make sure that the Soviet Union did not extend its Empire.

The principal military arm of the non-Communist sphere was the United States Strategic Air Force equipped with atomic bombs.

RED ARMY VERSUS ATOM BOMB

This situation lasted until about 1950, as long as only the Soviets had an effective army and only the United States had the atomic bomb. In this uneasy balance of power, the Red army was supreme on the

ground in all of Europe and Asia; the United States Strategic Air Force was supreme in the air over Europe and Asia.

Each acted at a deterrent on the other. As against an invasion by the Red army, Western Europe was wholly defenseless. Yet the Red army did not and could not overrun Western Europe. It was contained because the Kremlin knew what the United States Air Force could do to the Russian cities.

On the other hand, one might say vice versa—the United States was held in check by the Red army. Let me say a word about how we were held in check. The very highest military authorities knew that if we struck at the Russian cities, the Red army, which was already in Eastern Europe, would overrun Western Europe. It would occupy the countries against which we could not use the atomic bomb, countries such as West Germany, the Netherlands, Belgium, and France. When the Red army did that it would destory the existing governments. It would liquidate the existing leaders in all classes and before it could be forced to retire, it would probably destroy the big cities and the industrial plants of Western Europe.

This was the postwar stalemate: the Red army as against the atomic bomb.

The breakup of the postwar world was fairly foreseeable as soon as this original postwar stalemate was broken. In September 1949, the Soviet Union set off an atomic bomb of its own. This event announced to the world that the American monopoly was over and that a situation which was radically different from that of the postwar years would now develop.

The breaking of the American monopoly meant the beginning of a race in nuclear armaments. This was a terrifying prospect. It set in motion a strong tendency toward disintegration inside both the Stalinist empire and the Western coalition.

Once it was evident that there were going to be two rival superpowers, each armed with nuclear weapons, the nations which had no nuclear weapons began to feel desperately insecure. They were in danger of being destroyed in a war that would be fought with weapons they themselves did not possess. They could not defend themselves against those weapons. They could not strike back. They were bound, therefore, to make it their central national purpose to stay out of a big war if, because of acts of criminal folly, a big war could not be prevented. It was under these conditions that what we call neutralism was born and soon began rapidly to spread.

THE FORCES OF DISINTEGRATION

If we say that at Yalta the postwar world was divided into two great spheres of influence, then I would say that when the race of nuclear armaments got underway—beginning in 1949 but rising to a climax with the hydrogen bombs—the two great spheres of influence began to disintegrate. No doubt there were other reasons. But the trigger which set the forces of disintegration in rapid motion in both spheres was the race of nuclear armaments and the danger of atomic war.

On both sides of the Iron Curtain the pent-up forces of nationalism were released. On our side of the Iron Curtain these forces invoked the slogans of anticolonialism and anti-imperialism. On the other side of the Iron Curtain they have been invoking the slogan of anti-Stalinism.

These upheavals have, of course, a long history. The liquidation of the Western empires is one of the great historic phenomena of the 20th century, and the national opposition by Hungarians and Poles to Russian domination began long ago in the past. But when the atomic race began in 1949, nationalism and neutralism became urgent and passionate because they offered a means of staying out of war, a means of self-defense, and indeed a means of survival.

MOSCOW AND WASHINGTON

The terrifying destructiveness of the hydrogen bomb was demonstrated between November 1952, when we exploded ours, and August 1953, when the Soviets exploded theirs. Politically and psychologically these gigantic explosions have jarred loose, they have dislocated and pulled apart, much of the political structure of the postwar world. The disintegration of the old European empires in Asia and Africa has been accelerated. The disintegration of the new Russian empire in Europe has been started. The structure of alliances on both sides of the Iron Curtain has begun to crumble.

The new weapons made a profound impression both in Moscow and in Washington. Each Government had exploded one of these bombs and it knew from its own experiment that a weapon had been brought into being which was not just another and bigger bomb. This new weapon was different not only in the degree of its destructiveness, but in the kind of destruction it caused. It was a weapon of extermination, and the killing effects were not calculable and controllable. It had after effects on the generations to come which were unpredictable.

It was when he realized this that President Eisenhower made his historic declaration that there is now no alternative to peace. The Russians had also realized what the revolution in military weapons meant. This common realization in Moscow and Washington led to the famous meeting at the summit, which took place in July of 1955. At that meeting, Russia and the United States acknowledged publicly to each other and before the world that with the advent of the new weapons they could not, they would not, they dared not contemplate war.

At the time of the Geneva meeting we were all aware that beyond these mutual declarations against war there were no serious agreements reached, or even brought any nearer, on any of the great practical issues and disputes—on, for example, the reunification of the two Germanys, on the problem of the status of the satellites in Eastern Europe, on the future of the Middle East.

There is no way of telling whether or not the opportunity existed to go on from Geneva to settlements of some of these problems. If the opportunity existed, it was missed. On our side, the President fell ill and was unable for some time to take the initiative in foreign affairs. On the other side, the Russians stood pat and were unyielding. We do not know what might have been. But what has actually happened is that while we have come no nearer to settlements in Europe, in the Middle East, and in the Far East, there has been a rapid disintegration of empires and of alliances.

HUNGARY AND EGYPT

We can see what has happened to the French in North Africa and to the British in the Middle East. We know from what has happened in Poland and in Hungary that the Soviet Empire in Eastern Europe is undermined and that the Soviet military system, which is known as the Warsaw Pact, is profoundly affected. We know that if NATO is going to survive it is going to have a very different future from what we expected.

At the end of October 1956 the course of events which I have been describing burst into violence. It is a remarkable fact, which historians will long be studying and trying to explain, that the explosion in Hungary and the explosion in Egypt took place at approximately the same time. The fact that the two explosions came so very close together may not have been a mere accident. It may well be that the Israeli Government decided to strike when it saw that the Soviet Union was deeply entangled by the rebellion in Hungary. But the two explosions would not have happened if both in Eastern Europe and in the Middle East the situation had not become explosive.

These two explosions marked the disintegration of the postwar world.

TWO GREAT MISSIONS

You will want me to say before I conclude what I see emerging from all this. This is not easy and no doubt I am foolish to try. But here at least are some of the things that I see coming out of it.

There will remain the fundamental stalemate between the Soviet Union and the United States, the stalemate which was recognized by the President and the Soviet leaders at Geneva in 1955.

In all probability, neither of the superpowers will decide deliberately to make war against the other. On the other hand, both in Europe and in the Middle East, there are very grave issues which, if they cannot be settled by negotiation, may burst into violence. They may become uncontrollable, and they could involve Russia and America in a war they are both trying to avoid.

In Europe the question is whether the Soviet Empire can be liquidated in a peaceable and orderly way. If it is not, we must be prepared to see the kind of thing that has happened in Hungary spread to East Germany. If there is armed rebellion in East Germany and the Red army is used to suppress it, there is little likelihood that the West Germans will sit quietly on the sidelines. They will almost certainly join in, perhaps not officially at first, but as volunteers, and this will put the American and the British Armies in West Germany in a very dangerous predicament. For one could hardly expect the Russians to leave West Germany alone if it becomes the base of a rebellion in East Germany. All of this could readily enough lead to a world war.

The supreme question is whether we can, by a great effort of statesmanship, negotiate a settlement which averts these dangers. I am not saying that we can. But at least one can imagine such a settlement. It will have to be a settlement negotiated by the Western Powers with the Soviet Union and ratified by the two Germanys. It will have to provide for the reunification of the two Germanys. It will have to provide for the gradual but nevertheless definite evacuation of the European Continent up to the Soviet frontier by the Red army in the East, and by the British and American armies in the West. Only in this way can Poland, Hungary, and the other satellites be liberated.

But that will not be enough. The withdrawal of the armies, the unification of Germany, the liberation of the satellites will be possible, will be conceivable, only if we can construct by negotiation an all-European security system which is underwritten by the Soviet Union and the United States. It will have to be a system which guarantees the European nations among themselves, and particularly against a revived and reunited Germany. It will have to be a system which guarantees all of Europe against Russia and it will have to be one which guarantees Russia against Europe. Within such a European system there ought to develop an all-European economy, and beyond that—on the far horizons of hope—the prospect of a European political confederation.

In my view the issue of war and peace will be decided primarily in Europe, and, so to speak, along the line of the Iron Curtain. The greatest question in the world is whether Europe can cease to be divided and can become united by negotiation and peaceable means.

I would go so far as to say that if we could engage the Russians in a serious negotiation which looked to a general European settlement, the problem of the Middle East would become—I won't say soluble—but manageable. I say this because Russia is not vitally

interested in the Middle East. She does not need the oil, and she cannot be invaded from the Middle East. Russia is, however, vitally interested in Europe, particularly in Germany and in Poland, and it is there in Europe that we must make a settlement or live in continual danger of a gigantic war.

When I look into the future I think of this country as having two great missions to perform. The one is to bring about the European settlement I have just been describing. On this, as I have just said, depends the issue of peace or war. From such a settlement would come a new Europe, a Europe which had lost its empires overseas but had found a new strength, security, and prosperity in its own unity.

Our other mission is, I firmly believe, to work out a new relationship between the western nations and the newly emancipated peoples of Africa and Asia. The imperial and colonial age is over. The age which is to follow is only in its dim beginnings, and it is our mission to play a leading part in working out the terms on which the peoples of the East and the peoples of the West can live side by side in confidence, in security, and in mutual respect.

This is about as far as I can see into the future, and about all I can say is that in the years that lie ahead of us it will take good nerves to live and to find our way, and to act honorably and to preserve the peace. We have great problems at home, which arise from the enormous growth of our population and the deep changes caused by applied science. We shall be under severe pressure from abroad and we shall need constant vigilance and alertness and resourcefulness.

It will not be good enough to have good nerves, though we shall need them. We shall have to have knowledge of what is going on around us. We shall have to understand what we know. For that we shall need, more than we have ever needed them before, wise and devoted reporters and editors, like Gideon Seymour.

COMMENDATION OF WASHINGTON STAR

Mr. FULBRIGHT. Mr. President, I should like to take this opportunity to congratulate the Washington Star, one of the Nation's great newspapers.

Those of us in public office have a special reason to be interested in newspapers. They are the vehicle by which our ideas and our thoughts are made known to the public. Too often the newspapers take no real interest in presenting the thoughts of others. Too often they are interested only in projecting their own prejudices.

Mr. President, the Washington Star has rendered a fine public service in presenting to the public—yes, in truth, in presenting to the Members of the Senate—with clarity and unassailable logic, the essential, fundamental issues involved in the civil-rights controversy.

Mr. President, I ask unanimous consent that there may be printed in the RECORD at this point in my remarks the editorial from the Washington Star of yesterday afternoon.

I commend it to my colleagues and to the people of the country.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

JURY TRIAL—THE CHIEF ISSUE

It is nothing less than shocking that the expedient avoidance of jury trials in the civil-rights bill is described by the President of the United States as intended merely to uphold the traditional authority of the Federal courts to enforce their orders.

That is the line taken by his Attorney General. But it is a highly misleading, if not a deceptive, line. The procedure to bypass jury trials is being pictured to the people of this country by men in high places as an innocuous application of a frequently used legal device. In reality it is a radical and highly dangerous departure from one of our most prized traditions and fundamental rights.

On the opposite page today we are using a generous condensation of Senator O'MAHONEY's speech of Tuesday on this jury-trial issue. Please read it. The Senator is as free as any man from taint of racial bias. He wants a civil-rights bill. He wants to secure the right to vote. But he knows, as anyone should conclude who has studied this issue, that elimination of jury trial in this measure would, as he says, "institute something which has never existed in law in this land" since the Stamp Act. And once we follow that path we shall have done serious injury to one of the great principles of free government and prepared the way for others.

Those who defend avoidance of jury trials in the civil-rights bill rest their case generally on two points. One is that juries, southern juries, will delay or circumvent court orders by refusal to convict. The other is that Congress has already authorized government by injunction, without jury trials, in some 28 laws.

If one accepts as valid the cynical argument that trial by jury is inexpedient, because of a suspected reluctance of juries to convict, we have gone a long way to undermine the basic concept of all trial by jury. And Senator O'MAHONEY reveals in his excellent speech the subtle misrepresentation of precedent, in regard to the 28 laws now on the books, by describing the controlling circumstances in which they apply—circumstances far removed from those encompassed by the civil-rights bill. To pretend that they are the same, to say that this bill merely upholds traditional authority of the Federal courts, is to misrepresent the facts by creating a hitherto nonexistent tradition.

Senator O'MAHONEY's amendment, and others proposed to protect the right of jury trial in contempt cases originating under this bill, is the most important single change that should be made. It is hard to believe that the United States Senate will vote down such amendment.

Mr. FULBRIGHT. Mr. President, I also ask unanimous consent that the condensation of the admirable speech by the Senator from Wyoming [Mr. O'MAHONEY], also carried in the Washington Star of yesterday, be printed in the RECORD, as well as the article by David Lawrence.

There being no objection, the condensation and article were ordered to be printed in the RECORD, as follows:

SENATOR O'MAHONEY ON CIVIL RIGHTS AND DENIAL OF TRIAL BY JURY

I shall vote for a bill to make voting rights secure for all. However, I wish to make sure that it will not take away other sacred rights which belong to the citizens of the United States.

It is clear, however, that this bill goes far beyond voting rights and attempts to place in the hands of the Attorney General of the United States the power to try citizens of the United States by the injunctive process for crimes for which they are now punishable only when convicted by a jury.

Now we turn to the bill. Under the bill the right of trial by jury will be taken away from all persons charged with such crimes unless it is amended to preserve that right, namely, the right of trial by jury, because the bill, both in part III and part IV, attempts to clothe the Attorney General with the authority to bring about the punishment of persons so charged without a trial by jury. In every instance the section authorizing the Attorney General to bring a civil action includes as defendants not only persons whom the Attorney General believes are about to commit these offenses, but also any persons who are alleged to have already engaged in the prohibited acts or practices.

The amendment which the bill, if enacted, would work upon our criminal code and our civil code contains unimaginable pitfalls. The bill is directed not only against the South; the authority proposed in the bill could be exercised anywhere, wherever the crimes defined in paragraphs first, second, and third of the old laws occur—and they may occur anywhere. Then, under the bill, if enacted, the whole procedure would be changed; and—more important than anything else—citizens charged with crime would be deprived of the trial by jury which, under the Constitution of the United States and the laws of the United States, they are entitled to have.

The argument in support of these attempts to take away the right of trial by jury is based upon the contention that Congress has already authorized, in many other statutes, government by injunction, without a right of trial by jury. We are told that there are 28 such laws. An examination of these statutes reveals the important fact that, without exception, they seem to deal with the regulation of commerce and with the activities, not of natural persons, but of artificial persons known as corporations.

No corporation can exist unless it has been brought into being by the act of some government. Governments, like corporations, are the creatures of men; but men are the creatures of God. That was the message which Thomas Jefferson and the other Founding Fathers declared to the world when they wrote the Declaration of Independence. Men were to be the source of all authority which could be exercised over them economically or politically; and government was to be their instrument to preserve freedom.

But here we have a bill which, if enacted, by the elimination of jury trials would institute in the United States of America something which has never existed in law in this land, at least not since the appointed governors of the King of England sought by the Stamp Act and other emanations from London to deny the American colonists the freedom they insisted they possessed because they had come from England, where the doctrines of freedom had been wrought out, sometimes in bloody struggles against those who wished to use arbitrary power, from the King and the courts. Here we come directly to the old—in fact, the eternal—issue of human rights versus property rights.

The Constitution of the United States was drafted for the protection of human rights. The drafters were thinking of individuals, of living human persons, when they provided for trial by jury. They made an exception in cases of impeachment, because impeachment involves, not crime, but failure of an officer properly to discharge the duties of office. Of course, the officer impeached was to be tried by the Senate—jury enough, perhaps.

Mr. President, the framers of the Constitution were so careful to protect the human person against conviction for crime except by jury that even in providing for the trial of treason, they wrote it down that "No person shall be convicted of treason unless on the testimony of two witnesses to the same overt act, or on confession in open court."

It seems to me that this declaration found in the Constitution is very clear evidence of the desire of the great men who wrote that

document to make certain that there should be in the United States no government or no official so powerful as to send any citizen of the United States to prison for a crime without a trial by jury.

Shall we now, under color of a civil action on the equity side of the court, break down this shield which for centuries has been the only protection of living persons against the authority of the pretended authority of government? Everybody knows that whenever we attempt by law to violate the Constitution we imperil free government itself, because we set a precedent which can easily be followed by future Congresses and future administrations.

Once we set foot on the path that strays away from freedom to the arbitrary power of those who sit in the seats of the mighty, then we are straying away from the principles which brought this Government into existence—a Government which must be preserved in all its pristine grandeur as a free Government, if we are to pretend to be leaders of the Free World against arbitrary power that is now exerting itself by all sorts of chicanery and deceit and force to overcome the free government that men seek to establish everywhere. But the opponents of jury trial under this measure say that Congress has frequently given the Attorney General power to sue on behalf of the United States for relief by injunction. Such persons, I am persuaded, overlook the distinction between offenses which are classified as malum per se or mala prohibita, offenses which are in themselves evil or offenses which are wrong only because they happen to be prohibited by law.

In the former category are the criminal offenses for which no man can be punished unless tried and convicted by a jury. The latter offenses which arise only because some regulatory law prohibits them do not have the same significance as the crimes of force and violence which are evil in themselves and unfortunately are committed by some natural persons. It is precisely because they are evil in themselves that our system of government has always insisted that the person charged shall always be entitled to a trial by jury. No man can, under the American system of government, be punished for an infamous crime merely by the ipse dixit of an appointed attorney general or an appointed judge. The whole history of the jury trial is the development of the resistance of free men against arbitrary judicial and ex-executive power.

It is said that judges have the power to punish by fine and imprisonment in cases of criminal conduct without the intervention of a jury to find the facts. This argument I think was disposed of rather conclusively by the Supreme Court in *United States* v. *Goldman* (reported in 277 U. S. 229, 235).

That is not the only case I could cite. The books are full of such cases.

There can be no doubt, Mr. President, what the Supreme Court has thought about this matter in the cases that have been brought before it. I have invited attention, as I have proceeded to the difference between the living person and the artificial person, the natural person and the corporation, because the opponents of jury trials under the bill have seemed to read into the 28 statutes which have been cited an excuse for eliminating the jury trial.

I invite attention first of all to the fact that since a corporation can exist only by the action at law of some government, then the government of the nation in which it operates has a clear right to prescribe for its regulatory laws, and the United States Government has done so.

Among the laws which were passed by the Congress with respect to commercial regulation was the Clayton Act.

There is a clear, mandatory directive in the Clayton Act (for jury trials), one of the regulatory laws cited by our friends who want to have the Attorney General take over proceedings by injunction in civil trials to punish criminal contempt.

Two sections of the criminal (title 18, sections 402 and 3691) code are the complete answer to any doubters who think that the regulatory laws of the United States which give to the district courts the right to regulate corporations engaged in commerce provide a precedent for denial of the right of jury trial to a living person who becomes involved in a question of criminal contempt.

If regulatory decrees affect natural persons, or a defendant who demands a trial, and if a criminal statute is at issue, then it is clear that under the Constitution and the laws of the United States the right of trial by jury cannot be taken away.

Are we to turn back on the road to freedom, and make the individual, the flesh-and-blood citizen, the pawn of the court and corporations on the one hand, and, on the other hand, of the Attorney General and the courts, who may or may not be acting under the misapprehension that corporations are persons, with the same rights and privileges as natural persons? The Constitution and the Bill of Rights, like the Declaration of Independence, were both written by men who were defending natural persons. The regulatory laws providing for injunctive relief in the regulation of trade and commerce deal with corporations.

I should like to invite attention to a rather interesting and dramatic situation which developed once in this country, back in 1831. I do so because I wish to cite the names of the persons who were involved in drafting the earliest statute defining the powers of a judge to punish for alleged contempt committed beyond the precincts of the court.

A Federal judge by the name of James H. Peck was sitting in the State of Missouri. He tried a case in which his judgment met the dissatisfaction of counsel for one of the litigants. That is a situation which must develop in every case. But after the decision had been rendered, and after the appeal had been taken to the next higher court, the lawyer wrote a public article denouncing the judge.

The judge, affronted by this denunciation, hailed him into court and punished him for contempt. He sent him to prison and ordered his disbarment as a member of the bar.

A Member of Congress from the State of Pennsylvania by the name of James Buchanan, afterward to become a President of the United States, acting for the House Judiciary Committee, brought impeachment proceedings against the judge. The poor man was aged and decrepit, and almost blind. His physical condition aroused the sympathy of Members of the Senate, and he was acquitted, although some 21 Members of the Senate voted to convict him because his offense was regarded as so outrageous.

The acquittal took place, as I recall, on January 31, 1831. On the day after that acquittal, both Houses of Congress began to make clear what the law of contempt should be. They wanted to make certain that the acquittal of Judge Peck should not be interpreted by the other judges of the district court as a charter of offenses, or a license to United States judges to punish citizens for contempt beyond the confines of the court and the duties of the court.

Daniel Webster of Massachusetts, who was then a Member of the Senate, is to be honored, as one of the great Senators in our history. So great a lawyer was he that no one can challenge him. Daniel Webster reported from the Senate Judiciary Committee the bill correcting the decision of acquittal. The bill passed the House on the 28th of February, and on the 2d of March it was reported by Senator Webster to the Senate. It was written into law.

So, on the authority of Daniel Webster, of the Senate, and James Buchanan of the House, the Judiciary Committee of both bodies acted; and the act of Congress written into the law in 1831, and embodied, as I have shown, in the existing law, in title 18 of the United States Code, declared that the power of the judge to punish for contempt was confined to those contempts which interfered with the processes of the court, with the carrying on of the business of the court; and that when an offense was committed outside those boundaries it could be prosecuted only by indictment, and not by any contempt proceeding such as the present Attorney General would like to institute by transferring the matter to the civil branch of the Government.

Clearly we are dealing with a fundamental right of all Americans, regardless of creed, regardless of color, regardless of race, regardless of any contingency, when we are talking about the right of trial by jury and when criminal offenses are involved. To my mind, there is no answer to it; and because the American people know that there is no answer to it, I realize why mail has been coming to Members of the House and Senate day after day demanding trial by jury.

THE RIGHTS BILL CONTROVERSY—QUESTION OF POSSIBLE USE OF POLICE FORCE IN ELECTIONS VIEWED AS A MAIN ISSUE

(By David Lawrence)

The whole business of the Congress—including many a vital measure desired by the executive branch of the Government—is stagnated because of the efforts of a few politicians to gain some votes in the next election by enacting now a so-called civil-rights bill. Weeks and weeks of debate are ahead, and the really important civil rights that ought to be protected are being ignored.

Communists can openly preach overthrow of the Government, and subversives can plot against the security of the United States and infiltrate the Government itself, but not a single law of prevention is being pressed for passage.

All the Senate's time is being spent to pass a bill to punish, without jury trial, officials of State or local governments for offenses they have not committed but theoretically may commit in ruling on the eligibility of voters. This could mean eventual intrusion into the direct supervision of the manner in which State and city elections are conducted everywhere in the United States. It could mean investigations into alleged impairment of voting rights by the use of undue influences before election day.

The whole controversy is centered on how to police the States of the Union, which have always had full authority to make their own vote-eligibility laws. There is talk of using troops to coerce the States.

President Eisenhower says he can't imagine any circumstances under which Federal troops would be used to enforce school integration or other provisions of the pending civil-rights bill. But the natural question which this in turn propounds is why any such statutes should remain on the books or any new measures be proposed that could be used to invoke military force.

The truly liberal point of view abhors military intimidation in any form in a democracy. Only in a Fascist or Communist state is the military threat held over the heads of the people in order to get them to conform to a centralized government's edicts.

Every day that passes widens the gap between those in Congress who understand and those who do not understand the problems of the South. The debate in the Senate has brought out some significant information. It has revealed, for instance, that white juries generally do convict white persons accused of harming Negroes.

Basic is the misconception of the South's true position on the matter of mixing the races. It is often remarked in the South that the southerner dislikes the Negro race but likes the individual Negro, whereas the northerner likes the Negro race but dislikes the individual Negro.

During the current debate in the Senate a characteristic comment was made by Senator SCOTT, Democrat, former Governor of North Carolina, who said:

"My father had a considerable farming operation in the South. I worked under Negro foremen until I was 21 years of age. I got along with them all right. When I was only a little tot I would slip away from home, and when my mother could not find me, she knew exactly where I was. I was in one of the colored homes, eating dinner or breakfast. I enjoyed it. I enjoyed their company, and I think they enjoyed mine. I have always helped them, and will help them again. They are my friends.

"Modern-day carpetbaggers, if you please, are not interested in the welfare of either the white or the Negro people in the South, but are interested only in the political advantages they can gain on election day."

Day after day, charges are being made in the Senate debate that the southern people cannot be trusted to give fair trials by jury to Negroes. This is the justification claimed for passing a law making it possible to try through the device of contempt proceedings, those persons accused of offenses growing out of disputes over voting eligibility. And, of course, in contempt cases trial by jury is automatically denied.

As to the fairness of southern juries to Negroes accused of crime, Senator MCCLELLAN, Democrat of Arkansas, said this to the Senate:

"In the South, if a white jury gets the impression that someone has imposed upon a helpless Negro, they will immediately find the Negro not guilty. I have seen that happen many times.

"If we are going into these matters a little, I have said that I have no prejudice against the Negro race. When I was a prosecuting attorney, I defended a number of Negroes who were not able to employ a lawyer. I defended them without pay, because I believed they were innocent."

The debate on civil rights indicates that the proponents of civil rights legislation have been persuaded, as were the radicals of reconstruction days, that the end justifies the means. This certainly is not liberalism.

THE CITIZEN'S RESPONSIBILITIES IN INTERNATIONAL AFFAIRS

Mr. MARTIN of Iowa. Mr. President, I have had occasion to place in the CONGRESSIONAL RECORD several addresses made by Assistant Secretary of State Francis O. Wilcox. His discussions are of top quality always, and I ask unanimous consent that his statement before the American Association of University Women in Boston be printed with my remarks in the body of the RECORD.

There being no objection. the statement was ordered to be printed in the RECORD, as follows:

THE CITIZEN'S RESPONSIBILITIES IN INTERNATIONAL AFFAIRS

(Address by the Honorable Francis O. Wilcox, Assistant Secretary of State for International Organization Affairs, before the biennial convention of the American Association of University Women, Statler Hotel, Boston, Mass., June 27, 1957)

In speaking to you this afternoon on the citizen's responsibilities in world affairs, I shall be commenting upon problems to which you give a great deal of attention, individually and as an organization. As graduates of American colleges and universities you have been educated for leadership in a free society. Those of you here from foreign universities represent no less the training for a life of reason, tolerance, and understanding in societies dedicated to the well-being of the individual rather than the glorification of the state.

The interdependence of the modern world has made internationalists of us all. The world has shrunk so much that we do not have much of a choice in the matter. "We must all hang together, or assuredly we shall hang separately." Out of our political, religious, cultural and historical diversity we seek, and I believe we are finding, a common denominator of values.

Nearly half a century ago Theodore Roosevelt remarked that "The United States of America has not the option as to whether it will or will not play a great part in the world. It must play a great part. All that it can decide is whether it will play that part well or badly."

Today the choice before us is dictated by the need for human survival. With the threat of nuclear war hanging over our heads we have no alternative but to play our part wisely and well. The best insurance that we will do this is a well-informed public opinion carefully following the course of world events.

AMERICA'S ROLE OF LEADERSHIP

I venture to say that the most remarkable development of this century is the assumption over the last 17 years by the United States of its present role of responsibility and leadership in world affairs. This is a role we did not play during the previous 150 years of our existence as a sovereign state.

Indeed, the United States has been going through a revolutionary period since 1941 in our relations to other countries. In this brief period, we have moved from relative isolationism to internationalism, from a policy of no entangling alliances to a system of complex political, economic and security alliances with more than 40 nations. We have only to recall our extreme reluctance to participate in some of the meetings of the League of Nations, even in the modest role of observers, to realize how times have changed.

Clearly this dramatic shift has been impelled by considerations of the national interest. It is often forgotten that every important move in foreign policy is based on one overriding consideration—whether it will advance the well-being and security of the American people. The effectiveness of our policies must be judged on how well they accomplish this end.

In no country is foreign policy more constantly under review than in the United States. In no country do the people have a greater voice in foreign affairs. Our budgetary process alone assures such annual review. To be sure, this process often dismays our friends and allies who may not understand our system of checks and balances. Yet it has the great virtue of insuring that our policies, once arrived at, are backed by a majority of the informed leadership in the Congress, in the executive branch, and among the public. This again insures that they will be carried out with vigor and confidence. It also insures, and I think this is of vital importance, that our policy is morally defensible, for our people will tolerate no other.

I should like to say a word here about the unique nature of American leadership in international affairs. Through the centuries other countries have grown in influence, expanded their borders, and carved out empires because of personal ambitions of leaders, for religious reasons, for the advancement of trade and the accumulation of riches, or because of some other compelling sense of mission. Most who succeeded, at least temporarily, in carrying out such policies were able to count on the compliance of disciplined citizens, either because the governments were autocratic or because their people were also imbued with some particular sense of mission in the world. In the process, some of them have brought blessings along with oppression, and have planted the seeds of future self-government and independence.

The new American leadership, on the other hand, was not sought but was largely thrust upon us by a sick and frightened world. Its objective is neither conquest nor territorial aggrandizement, but the preservation of freedom. It identifies the well-being of the world community, under freedom, with the security and welfare of the American people. In essence, it seeks for other peoples the blessings we enjoy at home. The vast resources that we have poured into other countries in support of these convictions are sometimes mistaken as generosity of the "do-good" variety—or a belief that all problems are susceptible to economic solutions. This is to misinterpret the deep wellsprings of our belief, tested since the day of our independence, that men are created equal and that life, liberty, and the pursuit of happiness apply to mankind, not just to the people of one land, if we are all to prosper in peace.

Public support for United States leadership has been strong and consistent for a period of years now, despite surface fluctuations. Support has been especially strong for the United Nations which was born of American initiative and continues to receive the approval of the overwhelming majority of our people in both political parties and in all sections of the country. It is based on the increased awareness of the American people that the United Nations has served the interests of the freemen everywhere. It has served the cause of peace, security, and well-being for mankind.

I think we all have a responsibility to help preserve the unique quality, high purpose and practical application of the American concept of leadership lest it deteriorate into a new isolationism or be tempted to control where it cannot persuade.

RESPONSIBILITIES OF THE CITIZEN

I hope you will not think I am flattering you if I say that the quantity and quality of understanding of our foreign policy goals at home and abroad depend to a great degree on national organizations such as yours. You represent the educated elite of a highly educated society. A college degree is within the reach of a vastly greater proportion of our people than it was when most of us graduated. As our members increase, so does our responsibility. We must understand better America's new position in the world, how we got there, where we are going and why. The university graduate in his or her public and private life are the parents of ideas and leaders of opinion. For this reason they have a unique responsibility.

I am told that the women of America in the aggregate control most of the wealth of this country. If so, I think it is in good hands. But there is a greater resource at your disposal. You are also the cotrustees—for I think men must be accorded this responsibility also—of the concepts of democracy which made our country great. You are the recipients of an education designed to fit you for life in a free society. These are assets which should be used to enrich not only our national life and culture but to support an informed and enlightened foreign policy as well.

This is a continuing responsibility since foreign relations are in a constant state of flux, and policies require regular review. The attitudes of the American people and of the Congress intimately affect these reviews.

I am reminded of the recent observations of one of the top officers of the Department of State. He pointed out to a group of his colleagues that every day he was obliged to make decisions of major or minor import to our foreign relations. He found it particularly hard, he said, to make these decisions in the absence of the opinions and views, often conflicting, of those around him. These provided him with the perspective and alternatives necessary to form judgments which were soundly based.

His observation, I think, applies equally well to the policy forming process on the national scene. While the President and the Secretary of State formulate and carry out American foreign policy, the Congress provides, or it may refuse to provide, the required legislation and funds. When we don't get the funds or legislation, it is my feeling that we have failed in one of two ways. Either we have failed to secure public understanding of our policies; or the public understands them but is unwilling to support them. There is, of course, a third possibility—apathy and lack of concern on the part of leadership groups. This, in my opinion, is the most distressing of all.

I am often asked by organizations such as yours whether formal resolutions and petitions on foreign-policy matters have much influence. I can assure you that they do, both on the legislative and executive departments of our Government. While they may not always be translated into the specific actions you recommend, they are an indispensable part of the policy-forming process in a democracy.

SOME MISCONCEPTIONS REGARDING FOREIGN POLICY

Our role of leadership in world affairs is not and cannot be an easy one. International relations today have become increasingly complex. The task of understanding the many facets of foreign policy, therefore, requires effort—effort which can in the long run make the difference between a good and a bad policy. In addition, certain misconceptions have crept into our thinking about foreign relations based largely, in my opinion, on misinformation or misreading of the facts. I would like to examine some of these misconceptions by way of illustration.

THE UNITED NATIONS

I have said that there is wide support for the United Nations among the American people. This is so. But quite a lot of my attention and that of my colleagues in the Department of State is taken up with defending the United Nations against charges which are based on a misconception of its responsibilities and powers.

Some people tend to blame it whenever anything goes wrong in the world, as though the mere existence of an international organization could put an end to disagreement and disorder. Others condemn it because it has not settled in short order the major problems in the Middle East. It is often berated for not enforcing its will on Hungary. And it is criticized because the atomic arms race between the free world and the Soviet Union continues unabated.

Nothing could be more falacious than to condemn the United Nations for the weaknesses of its member states. We would do well to remember its limitations as well as its capacities. It is not a supergovernment. It is not a world government. It is made up of 81 sovereign, independent nations. It can only do what its members are willing to have it do at any given time.

We should not expect the United Nations to solve all our world problems any more than we expect the Congress to solve our domestic problems. Every year or so Congress passes new laws dealing with housing, education, labor problems, health, and other important matters. But the problems, themselves, are rarely disposed of finally and completely. They are ameliorated or brought within manageable terms but no one would argue that they are solved.

THE MIDDLE EAST

So it is with the United Nations. Surely we should be no less patient with the processes of this complex body than we are with our own Congress. Yet this is sometimes the case. The Suez crisis is a case in point. Some of those who applauded the General Assembly's immediate action in securing a cease-fire were somewhat dismayed when succeeding steps to supervise the cease-fire and to maintain a peaceful atmosphere were slower in coming.

These were modest steps, to be sure, but let us not underestimate their importance. A cease-fire, the withdrawal of foreign forces from Egypt, the establishment of a United Nations emergency force, the speedy clearance of the Suez Canal, the deployment of UNEF in Gaza and Sharm el-Sheihk—these were remarkable steps forward taken in the matter of a few months. Those critics who might have felt that these steps were too slow in coming perhaps overestimated the authority of the General Assembly.

The Assembly cannot dictate terms. Its processes many times must be slow, and even cumbersome. But the results that it has achieved in the past few months in the Middle East attest clearly to the strength of world opinion. The mobilizing of world opinion combined with patient diplomacy under the banner of the United Nations accomplished all of these steps.

To be sure, the long-range aspects of the Middle Eastern problem are not solved. But what might have been a major war has been averted and a basis for peace is slowly being rebuilt.

This is no time for us to have a smug feeling about the limited successes achieved in the Middle East. The shooting is over, but the basic causes that gave rise to the shooting must be dealt with if peace is to prevail.

Here again the critics may argue that we should move ahead with greater speed before the situation deteriorates. One important element of peace in the Middle East is the early solution of the problem of the more than 900,000 Palestine refugees who rely on United Nations help for subsistence and housing. Admittedly, the matter is an urgent one. But the Palestine refugee problem is so complex and so explosive politically that possible steps must be considered carefully if they are to improve rather than worsen the situation. Nor can the boundaries between Israel and her neighbors—a sore which has been festering for a decade—be satisfactorily adjusted overnight.

The Middle East remains a tinderbox where rash and ill-considered action could have serious results. We can take it for granted that the Soviet Union will continue to fish in troubled waters. The recent sale of Soviet submarines to Egypt is but another in a long series of incidents obviously designed to increase tensions in that area.

There continues to be a pall of fear hanging over the heads of the Arab and Israeli people alike. We must, therefore, push ahead with a patient vigor. We must do everything possible to develop a will to peace in the Middle East. Without such a will, a settlement of the long-range problems cannot be achieved.

THE CASE OF HUNGARY

The Hungarian revolt is another case in point. Now, I am the first to deplore the refusal of the U. S. S. R. and the Hungarian regime to comply with the General Assembly resolutions calling for the immediate withdrawal of Soviet forces from Hungary. But I do not agree with those who lay the blame at the doorstep of the United Nations. To do so is to misread history, the political facts of present-day international relations, and the United Nations Charter itself.

It was foreseen that without great power unanimity in the Security Council the United Nations could be powerless to stop aggression. It has now become clear that if either the U. S. S. R. or the United States defy the United Nations neither can be forced to comply without the use of armed might. In this nuclear age it is most unlikely that the Assembly would ever use its limited authority in such a way as to provoke a general war.

In the case of Hungary, let us place the blame where it belongs—not on the United Nations, but squarely on the shoulders of the men in the Kremlin who decided to use force in order to prevent the Soviet satellite system from falling to pieces about them.

History may well demonstrate that the revolt in Hungary was one of the most significant single developments since the close of World War II. It did irreparable damage to the Soviet satellite system. It demonstrated even more than the free world dared to believe how much the people of Soviet-occupied lands resent the rule of their Communist masters.

The report of the United Nations Special Committee was made public just last week. The Committee's report speaks eloquently for itself. It is an incontrovertible, objective indictment of Soviet tyranny and repression. Its point-by-point analysis refutes decisively the Soviet version of events in Hungary. After extensive hearings of witnesses and thorough examination of pertinent documentary materials, including Soviet-controlled sources, the Committee confirmed beyond any shadow of doubt the diabolical purpose of Soviet actions in Hungary. This purpose was to suppress the legitimate demand of the Hungarian people for freedom and national independence.

In brief, the report completely demolishes the fabrications which the Soviet regime has used to explain away its cruel and barbarous crimes against the Hungarian people.

The Committee found no evidence of intervention from abroad in the uprising. Thus, Soviet charges of American intervention were exposed as the complete falsehoods they were. Moreover, the Committee found no evidence to suggest that any political personality associated with the prewar regime in Hungary exerted any influence on events. To the contrary, its report clearly reveals the spontaneous character of the demonstrations in Budapest. It emphasizes the enthusiastic and widespread response of the masses of the people in a movement against the repressive system of a Soviet police state.

In disposing of the Soviet contention that the events in Hungary involved matters solely of Hungarian concern, the Commission found that the United Nations acted properly in dealing with the situation. It pointed out that massive armed intervention by one power in the internal affairs of another must, even by the Soviet Union's own definition of aggression, be a matter of international concern.

The report clearly exposes the Soviet Union as ruthlessly seeking its own ends in Hungary without any more regard for the wishes of the Hungarian people than for its obligations under the charter.

The United Nations can take full credit for once again exposing the true nature of Soviet imperialism which cloaks itself in Communist dogma. The United Nations forum has again proved itself a most useful means to answer Soviet claims immediately, clearly, and forcefully. Being able to meet and expose this type of propaganda in the United Nations is a source of vital strength and support for the free-world cause.

In the face of this serious indictment, we must ask ourselves what further action the General Assembly can take. Clearly, this

matter is of transcendent importance to the United Nations. I can assure you that the Committee's report will not be allowed to languish in the files. Already the Congress has unanimously voted for speedy action in the Assembly. This reflects the deep feeling and sympathy of the American people for the terrible plight of the Hungarian people. The United States Government favors Assembly consideration of the Committee's report at an early practicable date, and we are actively consulting with other United Nations members to this end.

ENLARGED MEMBERSHIP OF THE UNITED NATIONS

I have said that some people charge that the United Nations is a superstate or world government. They see cause for alarm in the large number of new nations in Africa and Asia that have recently become members of the United Nations. They fear apparently that they will vote as a solid bloc against the United States on important issues and impose their will on the Western World. This is far from being the case.

In the first place, we ought never to forget that the 28 sovereign countries that represent Africa and Asia have widely divergent traditions and cultures. In many ways their differences outweigh their similarities.

Furthermore, these countries have not voted as a bloc. On the Suez issue, of course, there was wide agreement but even then there was not unanimity among them. With respect to Hungary, their votes were very much divided to begin with, but the later resolutions condemning Soviet action received substantial backing from Asian and African countries. On the Algerian and the Cyprus issues at the last General Assembly, Asian initiatives resulted in compromise resolutions which received broad support. It is important to note that in all these cases they were voting with the United States.

Finally, it should be remembered that the General Assembly can only make recommendations, it cannot impose its wishes even by majority vote. I fail to see, therefore, how the new strength of the African and Asian states in the United Nations is a threat to us. In fact, it provides a challenge and a new opportunity for American leadership.

The Government of the United States and the great majority of the American people have wholeheartedly welcomed these states into the United Nations. We sincerely believe in the self-determination of peoples. We have welcomed their independence.

Now that they are members, we must try to understand their points of view, even as we expect them to understand ours. The people of the emergent nations of Asia and Africa want three things. They want freedom and independence. They want recognition as first-class citizens in the world community. They want to develop their countries and improve their lot in life.

We can all recognize these as American concepts. They are ideas that we can all support. If the people of this vast and populous area are given sufficient help and encouragement in attaining these goals, we can count on their remaining on the side of freedom.

Above all, let us not jump to the conclusion in the United Nations that merely because some states don't always reach the same conclusions we do, that they are against us. This would result in giving only lip-service to the concept of independence which we hold so dear. There is plenty of room in the United Nations for honest differences of opinion.

FOREIGN AID

Turning to another field, there also exist some serious misconceptions in our thinking about our foreign-aid programs.

Most commonly it is argued that in extending assistance to foreign countries we are engaged in a great giveaway program, that we are coddling a group of ungrateful allies, and that we are imposing an unnecessary burden upon the American taxpayer.

Let us look briefly at what you might call the anatomy of our so-called foreign aid. In the first place, the term "aid" is extremely unfortunate. As the President said in an address to the Nation on May 21, "The common label of 'foreign aid' is gravely misleading for it inspires a picture of bounty for foreign countries at the expense of our own. No misconception could be further from reality. These programs serve our own basic national and personal interests." The money we spend abroad for economic and defense assistance is basically an investment designed to pay dividends in greater political, economic, and military security for the United States.

Second, the assistance is mutual or cooperative. In most cases, it requires large outlays of funds, services, and manpower by the recipient country. Some countries with narrow economies literally have to resist American aid because they cannot afford it.

Let us be clear then on one fundamental point. American aid is no one-way street. The United States needs its allies just as much as they need us. They provide us with bases essential to the effective employment of our strategic air power. They maintain their own military forces for the joint defense of the Free World. Without them, many thousands of American soldiers would have to be stationed overseas—and at an annual cost to us of from 7 to 35 times what it requires to maintain a foreign soldier.

On the economic side, our economy would hobble along in low gear if deprived of the strategic materials—tin, rubber, industrial diamonds, manganese, and many more—which our assistance helps to keep flowing to our shores.

AID TO UNCOMMITTED COUNTRIES

There is a misconception that stems from a misunderstanding of the real purpose of mutual assistance. This misconception is based upon the contention that the so-called neutral nations should be called upon to cast their lot solidly with the Free World now or else suffer the loss of American aid. They should not be allowed to sit on the fence, the argument runs; they are either for us or against us.

Let us take the case of those states which have a policy of nonalinement. International communism is constantly seeking to convince the people and governments of such uncommitted countries that communism is the cheap and quick way for the underdeveloped peoples to secure high living standards and positions of political and economic influence. They are, in many cases, backing up this propaganda with loans and grants and other forms of material assistance.

Our assistance to these underdeveloped countries, in particular those bordering on the Sino-Soviet bloc, is of the utmost importance. It cannot be sporadic. If it is to be most effective in helping the government of these countries to maintain their independence, there must be assurance of responsible continuity.

The results of the competitive struggle between the free and Communist worlds are being watched carefully by the uncommitted peoples. Accomplishments in a country such as India, for example, which is committed to the liberal social and political ideals of the free world, are being compared with those under the ruthless dictatorship existing on the Chinese Communist mainland. The relative degree of prosperity which is achieved over a period of years by the peoples of these two areas may determine the choice between communism and free representative government in countries in the whole of Asia and Africa. Clearly, American and Free World assistance to India and other countries in a like situation can weigh heavily in the balance which may determine this choice.

Moreover, the assistance which the United States has extended to Yugoslavia during the past few critical years has been of inestimable value to the Free World. It has helped that strategic country maintain its independence from outside domination from any source.

I believe we are also under something of a misconception that other countries we aid are doing relatively little to help themselves or to help each other. Yet we know that many states have rigorous controls over consumer goods, far beyond anything we are accustomed to, to be able to export more goods and thus earn dollar income to help stabilize their economies. Many spend large amounts annually for the support and welfare of dependent territories under their care. And all states members of the United Nations contribute according to their means to the support of the specialized agencies of which they are members. Others give generously to the various voluntary programs of the United Nations.

We should also keep in mind that every dollar we send abroad under our bilateral program is matched by the recipient country which puts up an equal amount in local currency. These local currency proceeds thus do double duty in improving the economic strength and the military positions of the countries receiving assistance.

Generosity is a relative thing. A dollar from a poor man may be liberal. Ten from a rich one may be stingy. Now the United States is rich and we are not stingy. But I believe the portrait of the wealthy uncle handing out largess to his indigent neighbors is by no means an accurate one. It is enlightening, for instance, to note the figures for contributions to the United Nations expanded technical assistance program. The United States ranks fifth in per capita contributions. We are exceeded in generosity by Canada, Denmark, Norway, and Sweden in that order.

Lastly, I would observe that through our aid programs we should not expect to buy gratitude or unquestioning compliance with our wishes. Loyalty, from a man or a country, that is for sale is not worth much. It is well known that recipients of charity are inclined to harbor some resentment against their benefactors. I believe it was Mark Twain who said "I don't know why that man should dislike me, I never did him a favor."

The basic purpose of our foreign assistance program is to strengthen the free world. We are therefore partners in a common enterprise to which all contribute and from which all should benefit.

CONCLUDING COMMENTS

I have examined a few of the misconceptions or fallacies which complicate our thinking on foreign policy. There are many others. It is our duty as educated women and men to do what we can to remove these barriers to a sound understanding of America's role of leadership in international affairs. We have assumed a big continuing commitment and we must measure up to the responsibility.

We are an impatient, pragmatic people. We want to meet all problems head on and solve them. This may be possible in personal or national life. It is not always possible in international affairs. We must take account of the legitimate and complex interests and rights of other countries whose cooperation, understanding, and resources we need. Real leadership does not mean imposing your will but of winning support for your position. It is sometimes said facetiously that diplomacy is "the art of letting the other fellow have your way."

We face a continuing threat in the unswerving determination of the Communists to reform the world in their own image. Their leaders have left no doubt that they

are ready for a long struggle on the economic, political, and propaganda levels. It is not sufficient to recognize this threat to defeat it. We must understand its spurious appeal to some. We must avoid shortcomings in our own society and in our own diplomacy which may play into Communist hands. In the atomic age we must make our intentions unmistakably clear; our strength is a shield, not a spear, our dedication is to peace, not war. Miscalculation by the Communists on this score might lead to disaster beyond repair for both the free and Communist worlds.

The citizen's responsibilities in international affairs are first of all personal. This is a matter of interest, attitudes, and understanding. If each of us would make a determined effort to keep abreast of world developments and take appropriate action either individually or through the various organizations to which we belong, our foreign policy would be greatly benefited.

The American Association of University Women is in the forefront of organizations which recognize this responsibility and do something about it—individually, locally, and on the national level.

In the mid-20th century, we no longer have a choice about our position in the free world. It is merely a question of how effectively and how well we lead. This depends in no small degree on the insight which you who are trained for leadership bring to bear on the pressing issues of our times.

To sum up:

If we will understand the long-range nature of the Communist threat and do our best to meet it;

If we will continue to support the United Nations and the cause for which it stands;

If we will work closely with our allies and continue to avoid going it alone;

If we will demonstrate to the uncommitted nations of the world the enduring qualities of democracy and freedom;

If we will take our stand always as a nation on high moral grounds;

Then we can face the future with confidence that the cause of free men will prevail.

CIVIL RIGHTS

Mr. ERVIN. Mr. President, on July 14, 1957, the Telegram, of Newark, N. J., published an article by Davis Lee, a distinguished and informed Negro editor and publisher, entitled "True Picture of South Missed by Writers." The author of the article pointed out that—

There is more to the Negro and white relationship in the South than Jim-Crowism, than political and social equality, or the mixing of Negro and white kids in the same classroom. Nothing has been said about the economic opportunities that Negroes enjoy, or the businesses which they own, the security which they enjoy, the desire on the part of most southerners to help worthy and enterprising Negroes get ahead.

Then he proceeded to point out a number of significant facts. Among these facts were the following: That the Negro-owned Safe Bus Co., of Winston-Salem, N. C., is the largest Negro-owned bus company in the world; that Negroes in North Carolina own 700,000 acres of farmland and that there are more Negro farmers in the State than in any other State in the Nation; that North Carolina is the only State in the Nation which employs Negro specialists in agricultural extension work; that much has been written about integration in the schools of the State, but that no one has pointed out that in most instances the Negro schools are better than the white schools or that the Negro teachers receive higher pay than the white teachers.

This distinguished and informed editor and publisher further states:

The Negro in North Carolina eats better, dresses better, lives better, and enjoys more individual respect from white people than does his northern, eastern, and western counterpart.

He further states:

Much is being written at present about civil-rights legislation and opposition to its passage by southerners in the House and Senate. Those not familiar with the facts will get the impression that the southern bloc is against the Negro. Nothing is further from the truth. These southerners have done more, and will do more for the Negro than will those from other sections.

Mr. President, I think this very clear and truthful statement should be published in the RECORD in its entirety. For that reason, I ask unanimous consent that it be printed at this point in the body of the RECORD as a part of my remarks.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

TRUE PICTURE OF SOUTH MISSED BY WRITERS

(By Davis Lee)

Writers from throughout the world have visited the South during the last 12 months to get a closeup glimpse of the so-called race issue. The large publications in our country have sent their best staff reporters into the various Southern States, but not one writer has gone to the core of this issue, and presented a truthful, factual, intelligent analysis.

Practically every article has dealt with the social aspect, the feelings and reactions of Negro and white people of the region covered. The mixing of the races or resistance to it, has been the dominant theme.

There is more to the Negro and white relationship in the South than Jim Crowism, than political and social equality or the mixing of Negro and white kids in the same classroom. Nothing has been said about the economic opportunities that Negroes enjoy, or the businesses which they own, the security which they enjoy, the desire on the part of most southerners to help worthy and enterprising Negroes get ahead.

No one seems to be concerned about the best in the South, but only with the worst. Not one writer has come up with the fact that a Negro is a clerk in a white drugstore in Rosedale, Miss., and that two Negro sharecroppers have $10,000 each on deposit at the Valley Bank in Rosedale.

None have pointed out that Negro mechanics work at the Ford and Buick garages in Cleveland, Miss., and enjoy the same privileges and pay scale as the white employees.

Or that Negro customers completely take over the two banks in Port Gibson, Miss., and get more courteous consideration than do the white customers.

Not one writer has pointed out that Mississippi has thousands of top-notch Negro businesses, and that Negro progress is keeping pace with that in other States.

None have pointed out that the Negro-owned Safe Bus Co., Winston-Salem, N. C., is the largest owned Negro bus company in the world; that Negroes in North Carolina own 700,000 acres of farmland and that there are more Negro farmers in the State than in any other State in the Nation.

North Carolina is the only State in the Nation that employees Negro specialists in agriculture extension work. There is a State staff of 16. There are 49 county agents, 22 assistant agents, and 51 home agents with 10 assistants. In the State are 41 farm managers who manage farms for white owners.

A lot has been written about integration in the schools of the State. However, the fact that the Negro schools, in most instances, are better than the white has not been mentioned or that Negro teachers receive higher pay than white.

For instance, in Warrenton, N. C., John Graham, the white high-school principal, gets $5,550 a year. John Hawkins, the Negro high-school principal, gets $7,085 a year. In the county are 66 white teachers who draw on an average of $351.43 per month. There are 149 Negro teachers who draw on an average of $352.25 per month.

The Negro in North Carolina eats better, dresses better, lives better, and enjoys more individual respect from white people than does his northern, eastern, and western counterpart.

Much is being written at present about civil-rights legislation and opposition to its passage by southerners in the House and Senate. Those not familiar with the facts will get the impression that the southern bloc is against the Negro. Nothing is further from the truth. These southerners have done more, and will do more, for the Negro than will those from other sections.

For instance, Congressman BOYKIN, of Alabama, sent a Negro to law school; so has Congressman L. MENDEL RIVERS, of South Carolina. Congressman PILCHER, of Georgia, spent over $6,000 in cash to defend Lieutenant Saunders, a Negro youth of his home town. Senator TALMADGE has Negroes running his farm and so has Senator EASTLAND.

There is not one southerner in Congress who was not either nursed by a Negro or now has Negro servants back home. The so-called civil-rights advocates cannot lay claim to the above facts. And all of them combined have not done as much for the Negro as has anyone mentioned here.

The intelligent southern Negro is not concerned about what southerners say against him, he is concerned about what they do for him, and what they do speaks louder than what they say.

The South abounds in stories of Negro success and progress, and in every such story white people have made a substantial contribution, and those writers who invaded the South for the real story, missed it by a wide margin. For every instance of injustice, exploitation, and denial of constitutional guaranties, they could have found 10 of opportunity and progress. They could have placed the facts in focus so that the world could have received a clear picture of conditions. What an opportunity they missed.

MILITARY MANPOWER REDUCTIONS

Mr. HUMPHREY. Mr. President, I was privileged a few moments ago this morning to hear the colloquy between the distinguished Senator from Missouri [Mr. SYMINGTON] and the distinguished Senator from Pennsylvania [Mr. CLARK], a colloquy which related to one of the most important subjects, if not the most important subject, facing this Republic—the security of the Republic and the defense of the Free World.

Mr. President, I am appalled and amazed by the statements which have been made in recent days, which lend themselves to further confusion relating to our military and foreign policy. An incredible and alarming situation has been developing within the administration over the past year. During the past several weeks it has become so critical as to force the Congress of the United States, I firmly believe, to take official

notice and to call upon the President to explain to the people of the United States why we can be deploring the military manpower cutbacks of our NATO allies on the one hand and, on the other, making actual cuts in our own manpower amounting to more than 10 percent.

I think the President should explain why we send our disarmament negotiator over to London with instructions to accept no agreement which does not reduce Soviet armed strength at least as far as it reduces our own, and at the same time we undertake unilateral disarmament through a 100,000-man cut in our own forces, as first announced in mid-June by the Department of Defense.

More recently, there has been public consideration of the question of providing a stockpile of nuclear weapons for NATO, at the same moment we are dealing with the serious "fourth nation problem" at London—how to control and keep within bounds the possession of nuclear weapons by additional nations—in other words, how to control and keep within bounds the possession of nuclear weapons by additional nations.

I do not say that we should perhaps not provide a stockpile of nuclear weapons for our NATO allies. But I wish to point out the appalling incongruity. There seems to be not the faintest idea of relating a foreign policy to an armed services policy.

As the Washington Post lead editorial asked yesterday morning:

> Are we not riding off in several directions at the same time?

Mr. President, this editorial makes a lot of sense, and I call it to the attention of my colleagues as an important expression of concern over a problem which is developing to the first magnitude: How can we arrive at an integrated national policy with respect to our dealings with other nations?

Let me read a most pertinent comment from this editorial:

> Whether or not a 100,000-man cut can be made without affecting American military strength is impossible for an outsider to say. Certainly the announcement will have a deleterious effect on military morale, particularly since the administration has declined to adopt many of the incentive and pay provisions of the Cordiner report.

I digress to point out that one of the reasons the recommendations of the Cordiner report were not adopted was not that the recommendations were not sound, not that the recommendations were not needed, but, as has been stated, because they would cost too much. We cannot have a Military Establishment without paying for it.

Mr. SYMINGTON. Mr. President, will the Senator yield?

Mr. HUMPHREY. Let me complete this paragraph, and then I shall be glad to yield.

Continuing to read from the editorial:

> At the very least, one would think, the administration should have presented the plan to the London conference and possibly obtained some Soviet concession for it instead of merely announcing it as something of routine domestic concern.

That refers to the manpower cut which we make ahead of time, as we are negotiating in one of the most delicate conferences of our history. It is unilateral disarmament and unilateral reduction and control over the Armed Forces.

Mr. President, I ask unanimous consent to have printed in the RECORD at this point the text of an editorial from the Washington Post of July 18, entitled "Atoms and NATO."

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

ATOMS AND NATO

It is a little hard to reconcile the American consideration of a stockpile of nuclear weapons for NATO with the objectives at the London Disarmament Conference. In like vein, the projected reductions in American military manpower seem to abet a trend we have sought to discourage in NATO. Are we not riding off in several directions at the same time?

In a sense, of course, the establishment of a NATO nuclear stockpile would be a change more of form than of substance. American nuclear weapons are already present in Europe, and NATO forces are trained in the assumption that nuclear weapons would be available to them for defense. The present tentative proposal, for which an amendment to the Atomic Energy Act would be necessary, presumably would merely transfer the title in advance of a war emergency.

Yet, one of the fundamental aims which the United States and the Soviet Union supposedly share at the London meeting is to deal with the so-called fourth-nation problem—that is, to control the development and/or possession of nuclear weapons by nations other than the present nuclear powers. Even though a NATO stockpile would not alter the strategic situation, it might make considerable difference in the Russian attitude.

Possibly, as Secretary Dulles intimates, the Russians would be unable to reply in kind because they are afraid to trust their own allies in the Warsaw Pact. But there is no assurance of this; and the proposal may, in any event, seem an act of bad faith that would attempt to confirm a Western advantage when a standstill is under discussion. The proposal also may, unhappily, lend currency to the vicious Soviet propaganda distortions about the role of the NATO commander, General Norstad.

No doubt one of the purposes of the stockpile plan is to compensate in some degree for the military manpower reductions which Britain already has begun and which the announcement of American intentions is sure to encourage elsewhere in NATO. Stockpile or not, it will be difficult for us to convince the Germans that they should enlarge their military establishment when we are cutting down the numerical strength of ours, even if our NATO commitment is not affected.

Whether or not a 100,000-man cut can be made without affecting American military strength is impossible for an outsider to say. Certainly the announcement will have a deleterious effect on military morale, particularly since the administration has declined to adopt many of the incentive and pay provisions of the Cordiner report. At the very least, one would think, the administration should have presented the plan to the London conference and possibly obtained some Soviet concession for it instead of merely announcing it as something of routine domestic concern.

The net result of both these steps, if they are taken, will be to advance the United States and NATO further on the road to an all-nuclear military strategy. Undoubtedly it is too late to retrace this road, even if that were desirable. But every further step makes it more difficult to control the proliferation of nuclear weapons, the use of which even in limited war is an untested strategem that could end in nuclear extinction. If we cannot go back, would it not be wise at least to halt this march until we determine the chances at London?

Mr. HUMPHREY. I now yield to the Senator from Missouri.

Mr. SYMINGTON. Mr. President, I am much impressed with the remarks of the able Senator from Minnesota with respect to disarmament. He is chairman of the Joint Disarmament Subcommittee, and knows at least as much about that subject as other Members of this body.

The able Senator from Minnesota mentioned the Cordiner Committee report.

The regrettable vacillations in the policy of the President with respect to what is needed in the Military Establishment has been previously noted in the RECORD today. There will be those who say we are not cognizant of the importance of balancing the budget and reducing the debt.

I ask the able Senator if it is not true that there are three major ways in which we could maintain our present military strength and at the same time reduce our military expenses. The first would be to adopt the recommendations of the discarded Cordiner report. The second would be to adopt the discarded recommendations of the Hoover Commission. The third would be to have, for the first times since World War II a true weapons system evaluation program.

Mr. HUMPHREY. I think the Senator's recommendations are very sound. The Senator knows that in procurement programs in the Department of Defense considerable savings are possible by greater unification in that area.

Mr. SYMINGTON. Mr. President, will the Senator yield for a further question?

Mr. HUMPHREY. I yield.

Mr. SYMINGTON. The able Senator from Minnesota mentioned the Cordiner Committee report, and stated that the administration was not following its recommendations because it would cost too much money. It is true, is it not, that the head of that committee, appointed by President Eisenhower himself, Mr. Ralph Cordiner, head of the General Electric Co., stated in the report of his Committee that if its recommendations were adopted at least $5 billion annually would be saved by 1962?

Mr. HUMPHREY. The Senator is correct. The long-term savings on the basis of the report are very clear, I think. However, the cost in the immediate budgetary year might throw the Department of Defense budget out of kilter. It is on that short-term and very unwise judgment that the opposition to the report seems to rest.

Mr. SYMINGTON. It is true, is it not, that last Sunday, on a television program, Mr. Cordiner himself said that in his opinion his estimate of a $5 billion annual saving was conservative?

Mr. HUMPHREY. That is correct. That is my understanding. No Member of this body knows the details of this subject in more explicit detail than does the Senator from Missouri. My reference to the Cordiner report was in broad terms. The specific details have

been studied by the hour by the Senator from Missouri.

Mr. SYMINGTON. I congratulate the Senator from Minnesota for his wise remarks, and want to associate myself with him in the fact that at a time when we are attempting to negotiate mutual disarmament with a possible enemy, we are unilaterally disarming ourselves. In addition, we are not taking the steps which would make it possible to have the same military strength at a greatly reduced cost.

Mr. HUMPHREY. I say again that I emphasize that we should never come to the negotiating table with the Soviet Union with a sign of weakness. Surely we should never come to the disarmament table with the Soviet Union and at the same time start unilateral disarmament, or a reduction of our military strength, as though it were entirely a matter of domestic concern. This is incredible folly on the part of the administration.

Mr. SYMINGTON. Mr. President, will the Senator yield for one further question?

Mr. HUMPHREY. I yield.

Mr. SYMINGTON. It is true, is it not, that whereas the French originally promised to have 5 divisions in NATO, today they have less than 1, and we have protested that situation?

Mr. HUMPHREY. That is correct.

Mr. SYMINGTON. It is true, is it not, that whereas the British originally promised some 77,000 troops for NATO, they have reduced that number to 54,000, and say they intend to reduce it to 41,000 this fall?

Mr. HUMPHREY. And we have protested.

Mr. SYMINGTON. That is right.

It is true, is it not, that the Germans, who originally agreed to 12 divisions for NATO, are having great difficulty in getting them. To date, they have about 3, and we have protested that situation.

Mr. HUMPHREY. The Senator is correct.

Mr. SYMINGTON. The able Senator from Minnesota has devoted a great deal of his time to the study of foreign policy, and the question of disarmament. I know what he thinks the reaction to these protests will be now that we ourselves are announcing unilaterally at this time that we intend to reduce our Armed Forces by more than 100,000; and also we say that that is but a beginning. Does not the Senator feel that if the world situation is such we can afford these unilateral reductions at the same time we bitterly protest similar reductions in other NATO countries, the President of the United States ought to take the American people into his confidence instead of leaving them bewildered by his constantly changing positions?

Mr. HUMPHREY. He ought at least to take into his confidence Members of the Senate, before they are asked to stand on the floor of the Senate and, despite the hue and cry from their constituencies to reduce the budget, vote to restore a substantial amount at the request of the President and the Secretary of Defense.

We were asked to restore $1,220,000,000. Some of us voted to restore that $1,220,000,000 because the President said that not to do so was to threaten our security. Then, when we came to the conference with the other House, the President immediately—as is the typical performance—pulled the rug out from underneath us, and said that we could get along with less. I say that is not the way to formulate foreign policy or military policy.

The editorial goes to the heart of the matter, Mr. President: That the administration seems to consider the levels of our own armed strength as a matter of routine domestic concern. That the administration seems to feel that the disarmament negotiations are something entirely apart from and isolated from any other decisions which are made relative to the force levels of our own Nation and relative to the possession or nonpossession of nuclear weapons by NATO nations.

Does not the Secretary of State confer with the Secretary of Defense? Do we not have a National Security Council? Is not the function of that Council to consider the needs and demands of the Nation's security as a whole? Does not the Council exist to resolve differences of opinion at the highest level and present to the President of the United States its recommendations for basic, fundamental policy?

And if the National Security Council cannot resolve differences of opinion within its own ranks, should not the President take it upon himself to decide the national policy, and to insure that the United States of America speaks with one national voice, and acts under one national policy in our contacts with other nations?

Mr. President, as chairman of the Disarmament Subcommittee of the United States Senate, it has been my privilege for the past 18 months to study the details of the United States position and policy on disarmament. I believe that I understand it, and I can assure my colleagues that in general I support the current directives to our disarmament negotiator in London.

But Senators know that disarmament negotiations are not something which take place in a vacuum. We are not engaged in theoretical discussions with learned academic colleagues. We are facing across the disarmament table a tough, shrewd, and intelligent antagonist. We are not playing games with the Soviet Union. We are playing for keeps. And it is high time to sit up and realize that if our own administration is not keeping its eye on the ball, the Soviet Union is certainly watching very carefully what we do internally to set new lower force levels for our Army and Navy and Air Force, and what we do within our NATO alliance to affect the distribution and ownership of nuclear weapons. I point out also that the British Government, the French Government, the West German Government are not sitting around with their heads in the sand. They can put two and two together. Just who do we think we are fooling?

The talk, for example, about creating a clean bomb is the kind of language which plays right into the hands of Mr. Khrushchev, and makes us look ridiculous. It is an absurdity of monumental proportions. If anyone should be creating a clean bomb, it is the Soviet Union. More important, the people of the world can only look upon our claim to be continuing large nuclear tests in order to perfect a clean bomb with skepticism and doubt. They know that if it ever came to all-out war with large nuclear weapons it would be a war to the very death, and the largest and dirtiest and most terrible weapons would be employed.

Mr. GORE. Mr. President, will the Senator yield?

Mr. HUMPHREY. I must conclude my remarks, because I am speaking under the 3-minute limitation. I ask unanimous consent, Mr. President, that I may yield to my friend from Tennessee for just a moment.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Minnesota?

Mr. LONG. I must object and insist on the regular order. We are now in the morning hour, and I believe each Senator is limited to 3 minutes.

Mr. MANSFIELD. The Senator is correct.

The PRESIDING OFFICER. The regular order is that each Senator shall be limited to 3 minutes. Under that limitation, the time of the Senator from Minnesota has expired.

Mr. HUMPHREY. I recognize that that is the regular order, but I also understand that this morning we have not operated strictly under that order. I ask unanimous consent that I be granted time to conclude my remarks.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Minnesota. The Chair hears none, and the Senator may proceed for 1 additional minute.

Mr. HUMPHREY. Mr. President, this is the kind of inconsistency which is no longer a subject for simple head-shaking and tongue-clucking. This is a matter which deals with our national survival and, indeed, the survival of western civilization.

Senators will recall that in the midst of the debate in 1954 upon the McCarthy censure motion, the distinguished minority leader, Mr. KNOWLAND, felt justified in interrupting the debate to raise fundamental questions which were just beginning to emerge 3 years ago, and pointed out in a brilliant address on the floor of the Senate that we were approaching a state of nuclear stalemate, in which both the Soviet Union and the United States would possess such mutual nuclear power that a superiority in nuclear weapons would be simply meaningless. The other side would be able to destroy us even in its own death throes.

Mr. President, I wish to read one section from the distinguished minority leader's address on November 15, 1954; because I believe it so directly relates to the subject of my remarks today:

> It is likely that at that point when the Free World has become paralyzed and immobilized by the realization that the United States and the Soviet Union could act and react one upon the other with overwhelming devastation, that the men in the Kremlin will see their best opportunity to start with

what, for the want of a better term, I will call Operation Nibbling, wherein they will seek to take over the peripheral nations bite by bite. Before our eyes the people of the United States would see nation after nation nibbled away.

At the conclusion of his address, the minority leader said this:

It seems to me that the responsible committees of the Congress should promptly summon the State and Defense officials and the Joint Chiefs of Staff to fully inquire into our foreign and defense policy to find out where in their judgment it will take us and whether this clear and present danger which appears to me to exist is such that a basic change in the direction of our policy is warranted.

Mr. President, I am not aware that the Congress has yet followed the advice of the distinguished minority leader. After nearly 3 years we appear to be in even more of a quandary and a dilemma as to which way we should be going insofar as our Armed Forces policy, our policy toward our NATO allies, and our whole foreign policy is concerned. I suggest that this Congressional inquiry is needed today even more so than in 1954.

The PRESIDING OFFICER. The time of the Senator has again expired.

CIVIL RIGHTS—THE CLINTON CASE JURY

Mr. LONG. Mr. President, earlier today the junior Senator from Arkansas placed in the RECORD the editorial published in yesterday's Evening Star, relating to the jury-trial issue. An equally thoughtful editorial appears in today's Evening Star, on the same issue. I should like to read two paragraphs from the editorial:

Under the civil-rights bill the Clinton trial would be taking place without a jury. The facts constituting the evidence, the substance of that evidence, would be determined by Judge Taylor, the same judge who cited the defendants for violating his own injunction. A great many facts are in dispute. Only a jury should, under our theories of the administration of justice, pass on them.

It is incredible that one of the points under such serious debate in the United States Senate now is whether to abandon that tradition on the contention that some 40 million citizens of this country, who happen to live in the South, cannot be trusted to exercise the high responsibility of citizenship which consists of jury service in cases involving civil rights.

I ask unanimous consent that the entire editorial appear at this point in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

THE CLINTON CASE JURY

A layman may become quickly swamped in searching for the line that divides a judge's right to act in contempt cases without a jury and the citizen's right to trial by jury when charged with contempt. Amendments to the civil rights bill seek to draw such a line, instead of wiping out jury trials in an unprecedented extension of Government by injunction into a field involving violations of criminal law.

The Clinton, Tenn., trial, now in progress, offers a fairly good example of the dangers of abandoning trial by jury in certain civil rights cases. Time and again yesterday, when Judge Taylor was ruling against defense motions for a directed acquittal of the remaining defendants, he made the point that he was not saying the testimony was sufficient to convict, or so insufficient as to acquit. "This is for the jury to decide," he repeated. As judge, he ruled that there was evidence. But whether or not the evidence, supported by facts produced in testimony, is substantial evidence, remains a question for the jury. That, of course, is a concept deeply imbedded in law and in the traditions of our people.

Under the civil rights bill the Clinton trial would be taking place without a jury. The facts constituting the evidence, the substance of that evidence, would be determined by Judge Taylor, the same judge who cited the defendants for violating his own injunction. A great many facts are in dispute. Only a jury should, under our theories of the administration of justice, pass on them.

It is incredible that one of the points under such serious debate in the United States Senate now is whether to abandon that tradition on the contention that some 40 million citizens of this country, who happen to live in the South, cannot be trusted to exercise the high responsibility of citizenship which consists of jury service in cases involving civil rights.

Mr. LONG. Mr. President, I ask unanimous consent that an Associated Press dispatch describing the judge's ruling on the motion for dismissal, after the case for the prosecution was presented, in which the judge referred to the responsibility of the jury, and also an article entitled "Right of Trial by Jury," pertinent to this discussion, may also be printed in the RECORD at this point.

There being no objection, the ruling and article were ordered to be printed in the RECORD, as follows:

KNOXVILLE, TENN., July 18.—United States District Judge Robert L. Taylor today denied defense motions for a directed verdict of acquittal for 11 defendants in the Clinton trial.

However, before the judge ruled on defense motions for acquittal, the Government dropped criminal contempt charges against four other defendants, all from the Clinton area, and rested its case.

The defense motion was based on contentions the Government had failed in its efforts to link the numerous defendants in a common conspiracy.

It took the judge 25 minutes to set forth his reasons for refusing a directed acquittal.

Over and over again he said, "this court is not indicating by any means that he feels the testimony is sufficient. This is for the jury to decide."

He reviewed the defense contentions with respect to the 3 parts of the Government's charge, namely, that the 11 defendants knowingly and in a conspiracy acted in concert to interfere with the integration of Clinton High School.

As he finished each section of his summary, Taylor repeated that in sending the case to the jury, he felt only that there was evidence.

But he said repeatedly, "whether or not this is substantial evidence, I don't know. That's for the jury to decide. But the evidence does exist."

RIGHT OF TRIAL BY JURY: THE ANCIENT INJUNCTIVE WRIT AND LAW BY INJUNCTION

The confusion that has arisen over injunctions, right of trial by jury, contempt, and related arguments ought readily be absolved by a simple analysis.

There is a wide distinction between the ordinary injunction writ and law by injunction.

The injunctive writ, as a process of the courts of equity, is as old as the law itself. By this process, one individual petitions for a writ of injunction against another individual. The petitioner was and is required to put up bond to indemnify the respondent if the petition is wrongfully sued out. The respondent is served with process. Upon the hearing the judge either dissolves the injunction and awards damages against petitioner and his bondsman, or makes the injunction permanent.

This means in the latter case, where the injunction is made final, that the defendant or respondent must do or refrain from doing the things concerning which he was enjoined. The entire process usually deals with personal or real property rights. If the defendant or respondent violates the terms of the injunction, and invades the property, he may be summarily sentenced by the judge, without the intervention of a jury, for a contempt. Such is and has always been the law.

LAW BY INJUNCTION, OR LAW ENFORCEMENT BY INJUNCTION

Law by injunction or law enforcement by injunction is quite a different thing. In fact it is a new thing, which was introduced into our laws a mere 3 or 4 decades ago.

Law by injunction actually arose with the industrial age, and was at first applied to the labor unions. By this process, a judge, either Federal or State, issues a blanket injunction against an entire body or group of people, not as a matter of course being able to name them; against an entire membership of a union, even if the number amounted to tens of thousands, and against all friends and sympathizers, and against all residents of an area or city or district. The writ enjoined everybody, whether named or not, from doing of certain acts, the doing of which would not only violate the injunction, but primarily violate the law or some law of trespass. If anyone in the area violated the law or committed any trespass, he could be hauled before the judge and tried without a jury.

The practice of issuing these injunctions was at first directed against the labor unions. The unions would have no traffic with such circumvention of the basic law, and in 1932 brought out the Norris-La Guardia bill which outlawed such injunctions by allowing jury trials to anyone accused of violating such injunctions. The Norris-La Guardia Act passed without argument or dissent.

As an example, not at all abstruse, it might be argued that the equity judges could issue injunctions against all persons in a city or area, enjoining everyone therein from committing the crime of burglary. In this way they could jerk up all accused offenders and try them without a jury and thus entirely circumvent the law court and bring about a revolution in the entire judicial system of the land.

The arguments here about the distinction between civil and criminal contempt becomes somewhat irrelevant. It becomes really academic when a party charged with a civil contempt arrives at the jailhouse door.

The northern and western Senators advocating the civil rights bill should be queried as to how they would vote on a bill to repeal the Norris-La Guardia bill.

THE RIGHT OF TRIAL BY JURY, AN ELEMENT OF IMPERSONAL LAW

We live under the English and American jurisprudence and law of property and individual freedom. It is more than a thousand years old. Our Constitution, our basic laws, our manners, customs, habits, economy, and culture are based upon it.

It is said we have a government of laws, and not of men. In order to understand the true significance of this expression, we must look deeper into the structure and inherent philosophy of our system of laws. What the

famous expression really means is that we have an impersonal law rather than a personal one. It means that the law under which we live and have our being is a self-subsisting and functional thing, entirely divorced from the personal views, opinions, beliefs, or prejudices of any person or group of persons whatsoever.

There are two main foundation stones supporting this impersonal law under which we have lived and enjoyed as near perfect freedom as man can devise for so many centuries.

The first is the system of the finding of the facts of a case by an impartial jury, drawn from the ranks of the equals of the accused.

The second is what is known in the English and American law as judicial precedent, or stare decisis.

The jury system had been in vogue among our ancestors before Runnymede, in the year 1215. However, at that celebrated meeting the subjects of the English King made him put it in writing, Magna Carta.

And how does the jury contribute to the impersonality of our law? The jurors are drawn from the body of the people, for the sole purpose of finding the facts of the case. When they have performed this function, they are discharged and melt back into the mass of the people. Their identity is lost forever—never to be revived.

Judicial precedent means that a judge does not decide the law of the case according to what he may think is right or just, and not what he thinks the law of the case is or ought to be, but according to the fixed rules of law.

Thus we have an impersonal law, divorced from the whims and caprices of any one individual, be he a judge or savant of the most profound learning. The facts of the case are found by a legal agency—the jury—as impersonal an agency as mankind could devise. The law is administered by a judge bound by accepted and fixed principles of law that have existed for centuries.

And this is the impersonal law; a rare heritage wrought by fearless and freedom-loving people, who learned more than seven centuries ago that liberty could not be entrusted to the benevolence of any one person on the face of this earth.

It is sophistry of the most dangerous sort to argue that the judge is better equipped than the average juror to decide the facts; that he should be left to decide the case justly and fairly; that he can, as a rule, be depended upon to do the right thing. The history of civilization proves that when mankind depends upon the benevolence of any one person and depends upon him to do the right thing he is well on the road to tyranny. If the rough Englishman of some seven centuries ago had too much sense to trust his life and liberty to a Crown-appointed judge, certainly we in this advanced age should be able to match him in sagacity. Our court system which has evolved an impersonal law is the work of the Anglo-Saxon genius, unexcelled by any other peoples.

AMERICAN FIELD SERVICE PROGRAM AND RECORD OF PARTICIPATION OF STATE OF OREGON

Mr. NEUBERGER. Mr. President, under the American field service program of international scholarships, exchange sudents from friendly foreign nations have attended high schools in the United States as members of the senior class. In return, so that the exchange may be consummated, junior class American students go to live abroad with foreign families during the summer months.

This program has made a great and growing contribution to international understanding and friendship. To know somebody personally makes it harder to feel unreasoning enmity toward him—and so it is with the peoples of different nations.

I am proud, Mr. President, of the marvelous record which the State of Oregon has made in the operation of the American field service program of international scholarships. No State in all the Union has a higher degree of participation in relation to its population.

In school years 1947–56, some 109 junior high school students from Oregon lived abroad with foreign families, while in school years 1947–57 some 113 high-school seniors from overseas came to Oregon to attend our fine Oregon schools. This participation is greater than any other western State except California, which has over seven times Oregon's population. It is substantially greater than in the State of Washington, where the population is 35 percent greater than Oregon. During the recent academic year, 41 American field service students from other countries lived in homes in our State. I have been favorably impressed by the caliber of most of these students—and of our Oregon boys and girls who have gone overseas. They are a splendid group of young people.

Many of these exchange students are in Washington this week and will visit the House of Representatives and the Senate and meet for question-and-answer sessions with Congressional leaders today. I wish to extend my best wishes to all these students—and particularly those who have spent the past year in Oregon—and express my hope that they will carry back to their native lands a more intimate knowledge of the United States which they will communicate to others. The result of such action can only be greater world understanding.

Mr. President, in conclusion, I ask unanimous consent that a brief statement prepared by the American field service and describing the organization's international scholarship program be printed in the body of the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

AN OPEN DOOR TO UNDERSTANDING AND FRIENDSHIP

The American field service international scholarship is an open door which leads to understanding and friendship among the peoples of the world. It brings students from abroad to attend American secondary schools for a school year of study and experience, and during the summer, sends American teen-agers abroad to live with families. In this way, future citizens of the world learn to respect the similarities and differences among those who may live in different countries, but whose dreams and efforts are directed toward a single goal of a peaceful and useful life.

Those who pass through the open door are teen-agers (16 to 18 years old) who are adaptable, openminded and eager to learn. They are screened by educators and representatives of the OFSIS for these qualities in order that those chosen are best qualified to gain and contribute from their experiences.

AFSIS students are encouraged to engage wholeheartedly in activities in school, family and community. Close personal and individual contact is maintained by the organization with each student so that his year will be a well directed and fruitful one.

As an extra dividend to their year, AFSIS, in cooperation with the Greyhound Corp., organizes bus trips which take the students into a variety of communities and areas of the United States.

Out of sight, but not out of mind is true where it concerns the American field service and its returnee students. AFSIS keeps in touch with each returnee through letters, visits and Our Little World, a quarterly newspaper. The returnees in their turn follow through on the program by speaking to groups and writing articles and putting into practice wherever they can what they have learned from their experiences abroad. Their zeal and enthusiasm have made possible the American field service summer program whereby American teen-agers selected from schools which have participated in the AFSIS school year program, spend 6 weeks during the summer living with a family abroad. AFSIS committees have been set up in Austria, Belgium, Finland, France, Germany, Greece, Italy, the Netherlands, and Norway, to act as hosts to the Americans and assume the responsibility of finding suitable families and placing Americans in them.

Friendship and understanding among fellow men have been the aims of the American field service since 1914 when it was founded as a volunteer ambulance service, carrying thousands of wounded in World War I. In serving again in World War II with the Allied armies, and therefore with men of many nationalities and beliefs, was born the idea of a peacetime program which would further the basic friendship which exists among all men.

The American field service international scholarships could not carry on its program alone. Schools waive tuition and other fees. Families willingly enlarge their family circles and welcome students into their homes. Communities generously pool their resources to sponsor students in their schools, and the general public contributes funds. All these make it possible for AFSIS to swing wide the open door to a friendlier world.

CIVIL RIGHTS

Mr. NEUBERGER. Mr. President, I ask unanimous consent to have printed in the body of the CONGRESSIONAL RECORD an informative editorial from the Morning Tribune of Lewiston, Idaho, entitled "How Civil Rights Are Denied." The editorial article was reprinted in the St. Louis Post-Dispatch of June 26, 1957.

The editorial describes the documented and thorough speech delivered on the Senate floor by the distinguished senior Senator from Illinois [Mr. DOUGLAS] in which he cited the relatively small number of Negro citizens who are registered to vote in certain States. The editorial also gives credit to the Senator from Illinois for his effective championing of civil-rights legislation.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

HOW CIVIL RIGHTS ARE DENIED

(EDITOR'S NOTE.—Senator DOUGLAS listed many southern counties where Negroes do not or cannot vote; often a person must be eligible to vote to serve on jury; that is why southerners' jury trial amendment would cripple whole civil-rights program now before Senate.)

The Senate now will be able to consider the civil-rights measure independently of the Judiciary Committee, which has succeeded in bottling up many civil-rights bills in the past, and under these conditions there is a chance it will be passed.

It is an administration bill, but if it becomes law the credit for its passage will have to go to both the Republicans and the Democrats. While Mr. NIXON and Senator KNOWLAND reportedly hope to capture the credit for the Republican Party some of the most effective work has been done by northern Democrats, most notably Senator DOUGLAS, of Illinois. So it is doubtful that either party will be able to score a significant political gain through passage of the law.

The real gain will be scored instead by the whole people of the United States—our Negro population most directly and the rest of us insofar as the denial of the rights of a few is a challenge to the rights of all.

The bill's greatest impact is in the field of suffrage; it would empower Federal court judges to issue injunctions against discrimination in the right to register or vote, and empower them to try for contempt of court in case of violations. It is this portion of the bill that has been the most vigorously opposed by the South's representatives in Congress (though the House killed their amendment to make trials by jury mandatory in contempt actions). Southern Members of Congress insist that trial by jury is a basic right of American citizens and that if this right were to be denied in contempt of court proceedings, the country, and particularly the South, would be subjected to a tyranny of judges.

Opponents of the amendment have found their most articulate champion in Senator DOUGLAS. He told the Senate that in Alabama only 10.3 percent of Negroes over 21 in the 1950 census were registered to vote; that in Blount County, Ala., "there are 429 potential Negro voters but not a single Negro has voter registration"; that in Bullock County there are 5,425 potential Negro voters but only 6 Negroes are registered; that in Clay County there are 1,010 potential Negro voters, as of 1950, but not one of them is registered; that in De Kalb County there are 443 potential Negro voters but not one is registered; that in Jackson County there are 1,242 potential Negro voters but not one is registered; that in Lowndes County there are 6,512 potential Negro voters but not a single Negro is registered; that in Marshall County there are 605 potential Negro voters but not one is registered; that in Morgan County there are 4,641 potential Negro voters but not one is registered; that in Tallapoosa County there are 5,083 potential Negro voters but none is registered; that in Wilcox County there are 8,218 potential Negro voters but not a single Negro is registered. He said the situation prevails not only in Alabama but through much of the South. In Mississippi, he said, only 3 percent of potential Negro voters are registered.

What that means, Senator DOUGLAS has told the Senate, is this: "This amendment in practice will nullify the protection of the right to vote which the civil rights bill is designed to protect. * * * In the State of Arkansas, in the parish of Orleans, which includes the city of New Orleans, and in the States of Mississippi, South Carolina, and Texas, a person must be eligible to vote in order to serve as a grand or petit juror in the State or parish.

"* * * Thus, the jury trial amendment, when coupled with the existing denial of the right to vote to thousands of Negroes, thereby sets up this cycle:

"First, Negroes are denied the right to vote. Second, a civil rights bill, we hope, is passed by Congress to protect and defend that right. Third, an amendment is, however, added to provide jury trials for those who have prevented Negroes from voting. Fourth, by law, Negroes are excluded from jury lists because these lists are composed, by law in five States and by practice in many others, of those who are on the voting lists. Fifth, therefore the juries often would be composed predominantly of those whom the defendant has given the privilege of voting and largely would exclude those or those groups who have been denied the right to vote.

"Sixth, these jury members in turn would find it very difficult to exercise their fair judgment in civil rights cases. They will be making decisions in many cases where there exists an atmosphere of tension, coercion, threats, and intimidation. If they support a Federal judge's order protecting the voting rights of Negroes they know they will be exposed to economic pressure and possibly to physical violence. This would be true, in particular, of those jurors who might be willing on grounds alone of justice to support the order of a Federal judge."

It is a powerful argument, but logic is sometimes no match for emotion, and the issue is largely an emotional one in the South. Since the House has passed the civil rights bill, and Senator KNOWLAND has succeeded in bypassing the Judiciary Committee, we may shortly see which argument prevails.

REFINANCING OF PUBLIC DEBT

Mr. HUMPHREY. Mr. President, the Treasury Department yesterday afternoon announced that it was refinancing $24 billion of the public debt at the highest interest rates in more than a quarter of a century.

Holders of securities maturing in August and October were offered their choice of 4-year notes at 4 percent, 1-year certificates of indebtedness at 4 percent, or 4-month certificates at 3⅝ percent.

This is the highest interest rate on notes since Herbert Hoover was President, and it is twice the interest rate paid on the maturing notes which were issued in February of 1955 at 2 percent. So there has been a 100-percent jump in interest rates on notes in less than 3 years.

It takes no genius, Mr. President, to predict what this is going to do to money rates in general. It is going to drive them even higher. It is going to make it even more difficult than it is now for homebuyers to finance a home, for small-business men to obtain needed credit, and for State and local governments to borrow the funds they need for schools and hospitals and other public necessities.

The American taxpayer today is paying the highest bill in the country's history by way of interest on the public debt. It is estimated to run to $7.3 billion this year alone, which is $1,441 million more than interest payments were in fiscal 1952. Today's record interest rates mean that to refinance the entire debt would cost an additional $2 billion plus per annum—over and above the $1,441 million in additional interest foisted upon us by the GOP. It means eventual interest payments per annum of nearly $10 billion.

This, indeed, is a proud legacy which the Republican Party leaves with the American people. Higher interest rates—a record public debt and highest interest payments in the Nation's entire history.

Mr. President, I bring this matter to the attention of my colleagues merely because in the civil-rights debate and our consideration of the other great issues of the day, we had better not forget the toll this administration is taking from the taxpayers because of its misconceived and misdirected monetary and fiscal policy.

Mr. JOHNSTON of South Carolina. Mr. President, I should like to ask the Senator from Minnesota to state again the amount of increased interest rate.

Mr. HUMPHREY. The increased interest rate on the maturing notes issued in February of 1955, percentagewise, is up from 2 percent to 4 percent, which is a 100 percent jump. The increased cost we are paying now over what we paid in 1952 in interest on the public debt is an additional $1,441,000,000 which make a grand total of $7.3 billion the public is paying for interest, and if the Government continues to refinance, which it will have to do, with bonds at the rate of interest at which they refinanced them this week, we shall be paying an additional $2 billion. So that the total cost of this Republican folly, which is all we can call it, will be to the American taxpayer almost $3.5 billion.

That is something, Mr. President, the White House cannot take care of with its mimeograph machines. This is not something which can be explained away by one statement on Monday and another statement on Wednesday. These are cold, hard, statistical facts, and this administration has placed upon the backs of the taxpayers of the United States additional interest amounting already to almost $1,440,000,000, and the administration has $2 billion waiting for the taxpayers if it continues its present course.

Mr. JOHNSTON of South Carolina. Mr. President, I believe the Senator recalls that the farmers' net income has declined during the same period from about $14 billion to about $11 billion.

Mr. HUMPHREY. I wish to say to my good friend from South Carolina that we can rest assured of two things when the Republican administration is in power, just as surely as dawn comes in the morning and sunset in the evening. One is that the farmers' income declines and interest income on bonds rises. That result is inevitable.

Mr. JOHNSTON of South Carolina. A comparison of the two amounts to which the Senator referred will disclose how much it is going to hurt the economy of America.

Mr. HUMPHREY. If we study the amounts we shall see there has been literally a shift with farm income going down and interest income going up.

Mr. JOHNSTON of South Carolina. That is correct. There is taken from the net income of the farmer $3 billion and $3 billion more is piled onto the people for taxes for increased interest to be paid by the Government.

Mr. HUMPHREY. I wish to say, however, that the Republican Party is loyal to its friends. The difficulty is that sometimes we are unable to determine who the friends are. It is loyal to its friends. It is taking care of the bondholders by adding to their income this additional money, and at the same time the farmers are having it taken away from their income.

Mr. JOHNSTON of South Carolina. I should like to ask the Senator another

question. I read that the Defense Department is reducing its forces by about 100,000; that is, its personnel.

Mr. HUMPHREY. That is correct.

Mr. JOHNSTON of South Carolina. How much is it reducing its expenditures for trucks and other items sold by General Motors?

Mr. HUMPHREY. Very little. As a matter of fact, I should indicate that such expenditures are running at a very high rate at the present time.

Mr. JOHNSTON of South Carolina. They are still held up at the top for such items.

Mr. HUMPHREY. Expenditures are running at a very high rate at the present time.

Mr. JOHNSTON of South Carolina. Does the Senator have at his fingertips the amount the Defense Department is spending without competitive bids?

Mr. HUMPHREY. I regret to say that I do not, but the percentage is astronomically high. As a matter of fact, this administration really has not placed much emphasis on competitive bids. The negotiated bid, in terms of the volume of the total amount represents typical action on the part of the Department of Defense.

Mr. NEUBERGER. Mr. President, will the Senator yield?

The PRESIDING OFFICER. The Senator from Texas has been waiting for some time to submit a question.

Mr. YARBOROUGH. Mr. President, I wish to ask a question of the Senator from Minnesota.

The PRESIDING OFFICER. The time of the Senator from Minnesota has expired. The Senator from Texas may ask his question within his own 3 minutes.

Mr. YARBOROUGH. I shall ask it, then, within my own 3 minutes.

The PRESIDING OFFICER. The Chair recognizes the Senator from Texas.

Mr. YARBOROUGH. Let me ask the distinguished Senator from Minnesota to elaborate for a moment. I should like to ask him whether the $3.5 billion more per annum the American people are paying in interest rates now than they were paying in 1952, is merely going from one pocket to another without an impairment of the purchasing power of the dollar, or whether the purchasing power of our people is impaired to the extent of the $7.3 billion a year more in interest than they were paying on the same amount of debt in the last year of the Democratic administration.

Mr. HUMPHREY. I want to correct the record on the public debt.

Mr. YARBOROUGH. This total debt, $10 billion.

Mr. HUMPHREY. The interest on the public debt has increased by about $1,440,000,000. The interest, however, on the overall, private and public debt, it would be closer to the figure the Senator from Texas has just mentioned. I assure you this is not one of those nice transfers of income that has not in any way impaired the purchasing power of the citizen.

The purchasing power of the average citizen is declining. Prices are rising. Inflation is upon us. The so-called remedies of this administration for inflation have been totally ineffective.

The people of the United States have been burdened with two things: First, rising interest rates, which take away purchasing power from the average citizen; second, increased prices, which further reduce purchasing power.

Mr. YARBOROUGH. Mr. President, the distinguished Senator from Minnesota has made a further important contribution on this matter.

Mr. HUMPHREY. I thank the Senator from Texas.

Mr. YARBOROUGH. I thank the Senator from Minnesota for the contribution he has made.

Mr. President, I desire to call attention to the fact that during the debates in the Senate on the civil-rights bill, the higher interest rates are creeping up; they are not waiting for the debates to end. They are creeping up day by day.

ORDER FOR RECESS TO MONDAY AT NOON

Mr. MANSFIELD. Mr. President, I ask unanimous consent that when the Senate concludes its business today, it stand in recess until Monday next, at 12 o'clock noon.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR TRANSACTION OF ROUTINE MORNING BUSINESS ON MONDAY

Mr. MANSFIELD. Mr. President, I ask unanimous consent that when the Senate convenes on Monday, there be a period for the transaction of routine morning business, subject to a 3-minute limitation on statements.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF BUSINESS

Mr. MANSFIELD. Mr. President, has morning business been concluded?

The PRESIDING OFFICER. Is there further morning business? If not, morning business is concluded, and the Chair lays before the Senate the unfinished business.

CIVIL RIGHTS ACT OF 1957

The Senate resumed the consideration of the bill (H. R. 6127) to provide means of further securing and protecting the civil rights of persons within the jurisdiction of the United States.

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BIBLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is on agreeing to the amendment of the Senator from California [Mr. KNOWLAND] for himself and the Senator from Minnesota [Mr. HUMPHREY] to insert on page 10, after line 18, a new section as a portion of part III.

Under the unanimous-consent agreement entered into yesterday, the Senator from Pennsylvania [Mr. CLARK] is entitled to recognition at this time. The Senator from Pennsylvania.

Mr. CLARK. Mr. President, one cannot fail to approach the discussion of this bill with a heavy sense of responsibility and a touch of sadness. The debate so far has indicated a deep chasm between the views of those who support the proposed legislation and those who oppose it. This chasm is all the deeper because it springs from fundamental differences of political philosophy. Such differences strike deeply at the roots of our Federal system. Irresponsibility in dealing with them can cause untold damage to our democracy.

Our distinguished majority leader was clearly right when he said the Senate of the United States is on trial in this debate. On trial we are, and before the Free World, and, indeed, before the Slave World, too, for the words we speak here will be carried by propagandists of communism to the most remote hamlet in Indonesia, if those words could, even by distortion, aid the Communist cause.

We must, accordingly, act with responsibility and with moderation. This is particularly important as the debate moves as it is now doing, from that stage of unilateral opposition to the bill to a stage where the clash of opposing points of view brings into the open the divergent political philosophies which lie at the root of the controversy.

For this debate has already revealed a fundamental clash of political philosophies and we would be wise to admit it. It is a struggle between two very different ways of life: An 18th century aristocratic way versus a 20th century democratic way. No one has more eloquently stated the issue which divides us than a distinguished Federal jurist, United States Circuit Judge Henry C. Caldwell. Judge Caldwell's views are cited in the minority report of the Subcommittee on Constitutional Rights, signed by the distinguished Senators from South Carolina [Mr. JOHNSTON] and North Carolina [Mr. ERVIN]. They cite him in opposition to the bill; but in my opinion, Judge Caldwell's philosophy, carried to its logical conclusion, requires the bill to be supported. Writing in the American Federationist in May 1910, he said:

> The rights and liberties of the people will not long survive in any country where the administration of the law is committed exclusively to a caste endowed with boundless discretion and a long term of office, no matter how learned, able, and honest its members may be.

Judge Caldwell, of course, was talking about judges, but his comments are equally applicable to the social system against which this bill is fundamentally directed.

Those who oppose this bill are defending a caste system, just as the political leaders in England did during the 18th and, indeed, the first third of the 19th centuries. Those who are defending

this system now in the United States, like those who defended the system in Great Britain then, are brilliant learned, able, and honest. But in any free country in the 20th century, a society divided artificially into privileged classes and classes denied privilege carries within itself the seeds of its own destruction. In the modern world, whether we like it or not, the impact of science and the spread of universal, popular, free education have combined to render obsolete any social system based on caste.

Mr. JOHNSTON of South Carolina. Mr. President, since my name has been mentioned and since the name of the Senator from North Carolina [Mr. ERVIN] has been mentioned, I wonder if the Senator will yield to me.

Mr. CLARK. I yield to the Senator from South Carolina.

Mr. JOHNSTON of South Carolina. I notice that on page 10 of the minority report we had used the same quotation which the Senator from Pennsylvania has made use of, which reads:

> They knew the history of the Court of Star Chamber and rightly deduced from it "that the rights and liberties of the people will not long survive in any country where the administration of the law is committed exclusively to a cast endowed with boundless discretion and a long term of office, no matter how learned, able, and honest its members may be."

We quoted as an authority United States Circuit Judge Henry C. Caldwell in the American Federationist of May 1910. I have 10 pages prepared on that 1 particular subject. I did not know it was going to come up at this time and I shall not read it all. Briefly, it points out that in the history of star chamber proceedings the judges could intimidate anybody, including juries. In those days intimidation was practiced by judges in star chambers. That is why we brought up that point. That is the reason why we quoted Judge Caldwell. He was talking about judges. The Senator has stated Judge Caldwell was talking about judges. Judge Caldwell was talking about judges in England and the way they were rendering decisions at that time. One cannot speak of a caste when the jury in Federal courts is perhaps selected from citizens of a State at large, or certainly a large section of a State. That is what we are contending now. We do not base our contention on caste, but want to assure to all the people of a State the right of a trial by jury, and let juries decide the questions.

Mr. CLARK. Mr. President, I shall be happy to yield from time to time to my colleagues for question or for debate and colloquy. I hope that I shall not be called upon to yield in order that we may have sort of gentlemanly comments, which perhaps can be made on the time of the speakers.

Mr. JOHNSTON of South Carolina. I thank the Senator for yielding to me, but inasmuch as he had called attention to the report we had made, I thought I ought to explain why we quoted Judge Caldwell. I did not go into all the 10 pages I have in my speech. I hope I shall never have to explain that matter fully, but when the time comes, if necessary, I shall go into it.

Mr. CLARK. I have not the slightest objection to the interjection by my good friend, the Senator from South Carolina. Indeed, I thank him for making his point so clear.

Mr. ERVIN. Mr. President, will the Senator yield?

Mr. CLARK. I am happy to yield to my good friend, the Senator from North Carolina, for a question.

Mr. ERVIN. I wish to say that the Senator from South Carolina was trying to smite an error while it was young, before it grew into a big error.

Mr. CLARK. I think my good friend, the Senator from South Carolina, was kind enough to point out in the quotation from Judge Caldwell I made it very clear he was talking about judges.

Mr. President, no one can read the history of England from 1750 through 1832 without feeling an enormous admiration for this ruling group.

In England the gulf between the aristocracy and the people was social and economic. In our country it is social, economic, and racial as well.

For myself, I have a strong personal predilection for the way of life that this class system makes possible. All my life I have seen it operate and indeed govern in my mother's home in Louisiana. My grandfather fought to support it—and fought gallantly, I may say—in Albert Sidney Johnston's Confederate Army at the Battle of Shiloh, and with Gen. Dick Taylor on the west bank of the Mississippi, until the War Between the States ended in 1865.

Moreover, there are ugly aspects to the 20th century modern way of life which will inevitably engulf and destroy the caste system which opposes this bill, just as modern democracy engulfed and destroyed the caste system in England. These ugly aspects are, perhaps, more prevalent in northern cities than in the rural south. There is a mote in our northern eye which we need southern help to remove. In return, may I say to my southern friends: Judge us not too harshly if we point out the beam in your eyes. There is plenty of work for us all to do together in removing injustices all over the country, so we in the North should not be sanctimonious and smug about it. We have plenty of problems, too.

Assuredly, we have many things to be proud of in America, but we have many things to be ashamed of, too. And of those things of which we should be ashamed, the North and East have their fair share. In the words of equity—a somewhat abused word in this Chamber—we do not, any of us, come into this debate with entirely clean hands.

But our task today in the Senate of the United States is not to preserve an outmoded and obsolete way of life but to mold inevitable change to our will. Thus, in the eloquent words once spoken by the junior Senator from Florida [Mr. SMATHERS], we hope we brush briefly against history. Our will is not all powerful; we can perhaps divert the stream of history, but we cannot cut it off nor can we even dam it. There are forces abroad in the world today which are too strong to be subdued; we ignore them at our peril.

What, then, should be our attitude of mind as we approach the consideration of this bill and the evils its seeks to remedy? I suggest our attitude must of necessity be one of tolerance, a decent respect for the opinion of mankind, including those who disagree with us, and an honest sense of personal humility. As Judge Learned Hand has pointed out, no one expressed this attitude of mind better than Oliver Cromwell—and one might think he would be the last to express this point of view—making one last effort at conciliation with the troops of Charles I before the Battle of Dunbar, when he said:

> I beseech ye, in the bowels of Christ, think that ye may be mistaken.

We might all remember that on the floor of the Senate, as the debate proceeds.

Let us then consider the need for this bill and its legal and constitutional aspects. To do so intelligently, I submit, we must cast aside two appealing but fallacious approaches.

The first is reliance on what the Founding Fathers might have thought. Is it not quite immaterial to a sensible discussion of the present issue whether the Constitution of the United States would have been ratified by the restricted electorate of that day, consisting largely of the property-owning classes, had they been able to foresee the powers proposed to be vested in the Federal Government by this bill?

Does anyone seriously think that the Founding Fathers, much less the voters of 1789, would have approved the Constitution had they then known even how John Marshall would interpret it some years later?

Does anyone seriously think a majority of either the electorate or of the delegates to the Constitutional Convention in Philadelphia could have been mustered to support the 13th, 14th, 15th, 16th, 17th, 18th—and I dwell on that—19th—and I dwell on that—or 21st amendments?

Does anyone seriously think that the founder of our country, George Washington, would have supported either universal suffrage or free compulsory education back in 1789?

Of course not.

The genius of our Constitution and of our system of jurisprudence is their capacity for growth. We cannot, and we should not, attempt to turn back the clock. That this is the rule of modern law has been laid down so frequently by the Supreme Court of the United States that citation of cases would be redundant.

I submit that arguments based on how the Founding Fathers would have reacted to the present bill are entirely irrelevant to the problem before us.

The second fallacious approach we should avoid in discussing this bill is to substitute slogans for thought.

Those who oppose the pending measure—and I honor their integrity, their sincerity, and their ability—use such phrases as "certain supposed civil rights," "bureaucratic and judicial tyranny," "violation of basic American concepts established by the Founding

Fathers," "utter nonsense," "unspeakable folly," "government by injunction instead of government by law." Analogies are drawn—falsely, I think, as I shall develop later—to the "Court of Star Chamber."

If any of these things are true, the bill, of course, should not pass. But calling a rose by any other name does not affect its smell. Nor, in my judgment, does indulgence in purple prose add much to the sober consideration of vitally important legislation.

Let us then see, calmly and in a spirit of tolerance, if the harsh phrases applied to this bill have any substance in fact. Let us consider whether the opponents of this measure are talking in terms of reality, or whether they have perhaps so lost their perspective that they cannot see the forest for the trees.

These, I submit, Mr. President, are the questions which every Senator should ask himself as he approaches the consideration of this bill: What is the situation to which this bill addresses itself? What are the alleged evils for which it seeks to provide a remedy? How necessary is it to invoke additional Federal power? Could we not let well enough alone with the thought that adequate progress is being made under existing law to remedy the evils at which the bill is aimed? Is there not real danger that the cure proposed could turn out to be worse for the patient than the disease from which he suffers?

We live, as we all know, in a time of drastic and rapid change. New forces are abroad in the world seeking freedom and democracy—social, economic, and political freedom and democracy for all men, regardless of race or color, and regardless, too, of the type of government, colonial or otherwise, under which they may have lived for centuries. Two of the most eloquent opponents of this bill, the distinguished Senator from North Carolina [Mr. ERVIN] and the distinguished Senator from South Carolina [Mr. JOHNSTON], who signed the minority report of the Senate Subcommittee on Constitutional Rights, complain of the "never ending agitation on racial matters." And they are right. There is such agitation abroad, not only in the United States, but all over the world—behind the Iron Curtain, I suspect, as well as in front of it. This agitation, in my judgment—and I deplore it—will be never ending until equal justice under the law and the equal protection of the laws is secured for all peoples abroad as well as at home, without regard to race or color.

We are in the middle of this agitation, and our historic role as Americans has been to support it. We talk glibly in the United Nations, on the floor of the Senate, and elsewhere in the public hustings of the benefits of freedom and democracy, and of our belief in the equality of all races before God and before the law. Yet, here at home, we are denying to a substantial segment of our own population that freedom, democracy, and equal protection of the laws which we purport to espouse.

I say this with sadness, but so long as one Negro in the United States is denied equality of opportunity, the right to move about on an equal basis with his fellow American citizens without discrimination because of his race or color, just so long will this agitation continue. And just so long, also, will the United States of America be charged with hypocrisy abroad for preaching that which it does not practice at home. Our failure to remedy the conditions which this bill seeks to deal with is crippling day by day and every day our leadership among those nations which seek to overcome the threat of communism.

The bill of particulars in support of these statements was written with such skill and ability by the distinguished senior Senator from Illinois [Mr. DOUGLAS] that I shall not go over in any detail the same ground. In his learned address before the Senate on Monday, June 10, 1957, he reviewed, State by State, and, indeed, county by county, the denial of voting rights to Negroes in the South. So far as I know, none of the opponents of the pending measure has attempted to controvert the facts Senator DOUGLAS there set forth. They came from a memorandum prepared by the research office of the Southern Regional Council and were forwarded to Senator DOUGLAS from the Legislative Reference Service of the Library of Congress. They show that, of the total nonwhite population 21 years of age and over in Mississippi, only 3.9 percent were registered as voters. In Alabama the percentage was 10.3; in Virginia, 20.1. One can be sure the percentage of those who registered far exceeds the percentage of actual voters.

Mr. DOUGLAS. Mr. President, will the Senator from Pennsylvania yield for a question only?

Mr. CLARK. I am happy to yield to my friend from Illinois for as long a time as he wishes to take.

Mr. DOUGLAS. The Senator from Pennsylvania is making a fine address. He has just made an extraordinarily important point, namely, that the figures for registration of Negroes in the South, small as they are, are greater than the actual number of Negroes who vote. Generally we do not know how many Negroes vote. However, the very able Governor of Mississippi, who is himself a very strong opponent of the bill, stated in his testimony that in the last election in Mississippi, of the approximately 500,000 Negroes of voting age in Mississippi, only about 20,000 were registered, or 4 percent; but that in the last election only 7,000 voted. So while only 4 percent were registered, the number who actually voted was less than 1½ percent. This is a very important point.

Mr. CLARK. I thank the Senator from Illinois for his pertinent comment.

There are variations among the Southern States and within the counties of each such State, some of which reflect great credit on local authorities. I am proud, for example, in Iberia Parish, La., where I am a property owner and where my mother, grandfather, and great-grandfather made their home, out of an estimated Negro population over 21 of 7,130, 4,225 are registered—surely, all things considered, a not uncreditable record.

Let those who favor the bill recognize that in many areas of the South real progress is being made in enfranchising the Negro voter. But let us also sadly admit that the progress is not only far too slow, but is actually nonexistent—and is, in fact, retrogressing—in county after county and in a measurable number of States.

Nor is documentation needed to establish that integrated schools are the exception rather than the rule below the Mason-Dixon line. We can point with pride to what has happened in Louisville, Ky., and what will happen in Nashville, Tenn., next fall.

I see the distinguished junior Senator from Tennessee [Mr. GORE] in the Chamber. I wish to compliment him on the fine progress being made in Nashville with respect to the school segregation problem.

We can view with hope the situation in New Orleans, where strong forces are at work in support of integration. We can look with gratification at the substantial progress in sound race relations being made in Atlanta, Ga., under the leadership of that great mayor, William Hartsfield. But none of these can obscure the fact that, at the moment, over wide reaches of the South, the Supreme Court's 1954 decision is a dead letter. This, indeed, is admitted by opponents of the bill, who aver that they mean to keep it this way.

Nor is the situation much different with respect to certain other specific civil rights protected by the Constitution and laws of the United States. In addition to the right to vote and the right to attend school without discrimination, the Attorney General has listed, supported by judicial authority, the following rights now honored more in the breach than in the observance:

First. The right not to be purposefully discriminated against in public employment on account of race or color.

Second. The right not to be denied use or enjoyment of any governmentally operated facilities on account of race or color.

Third. The right not to be segregated under compulsion of State authority on account of race or color. This would include segregation on buses and trains, in recreational areas, and in public restaurants and hotels.

Fourth. The right to trial by a jury from which members of the defendant's race have not been purposely excluded.

To which I might add and the right and the duty to qualify and serve as a member of a grand or petit jury, without regard to race or color.

This last right and duty holds the key to many other doors now locked through racial discrimination. The vicious circle has been described effectively by both the junior Senator from New York and the senior Senator from Illinois, I shall not elaborate. The fact is that, since Negroes are denied the right to vote because of their race or color, they are not qualified in many jurisdictions to serve on grand or petit juries. And because of this latter denial, their efforts to secure civil rights to which they are entitled by the Constitution and the laws of the United States all too frequently fail because of the unwillingness of all-white juries to protect those civil rights in ap-

propriate civil or criminal proceedings brought to enforce them.

This is the problem which confronts us. What then does this bill do to remedy this situation? Frankly, not enough. Many other bills have been introduced in this body which would do a great deal more and do it better than the measure under consideration. Among those bills is S. 510, the omnibus civil-rights bill, offered by the distinguished junior Senator from Minnesota [Mr. HUMPHREY] and a number of other Senators including myself.

The measure under consideration, as the world well knows, is not a Democratic but a Republican bill sponsored not by the northern and western Democratic liberals but by President Eisenhower, Attorney General Brownell, and the distinguished minority leader. Whether they are still prepared to defend it, nobody yet knows. I should like to find out before too many days have passed.

But this is a matter above partisanship. The pending measure is the best we can reasonably hope to pass during the 1st session of the 85th Congress. Accordingly, I support it as a reasonable measure making at least some small contribution to affording to all American citizens the equal protection of the laws.

Parenthetically, one wonders at the vigor of the opposition. If the Attorney General of the United States is as dilatory and negligent in protecting these civil rights of all Americans during the second Eisenhower administration as he was during the first, the cause of freedom will not have advanced very much, if any, by January 1961. Despite the strictures laid upon him by those who oppose the bill, our trouble is not with an Attorney General mounted on a white charger intent on the conquest of injustice, but rather a reluctant politician moving gradually to deal with the periphery of a serious social, economic, and legal problem, and moving only because political expediency requires the party he represents to do something about it before the next national election.

As all by now know, the bill is in four parts. Part I would seem innocuous enough. It merely calls for another commission. We have had a spate of commissions since the Eisenhower administration took office. Few have accomplished much of anything. There was the White House Conference on Education, and yet we are further than ever from solving our school problem. There was the President's Advisory Committee on Housing, but its recommendations were ignored. There was the Commission on Intergovernmental Relations which made a fine report, but nothing happened; now the President wants another commission to do the same thing all over again.

Mr. GOLDWATER. Mr. President, will the Senator yield?

Mr. CLARK. I am happy to yield to the Senator from Arizona.

Mr. GOLDWATER. Mr. President, I merely wish to ask the distinguished Senator a question before he leaves completely the part of the text of his speech which I believe he is about to leave. I should like to ask him whether, in his opinion, the bill, as now written, would grant the right to work to Negroes who are now denied that right by segregated unions?

Mr. CLARK. I do not believe it would. I must admit that I have not made a very careful investigation into that question. Of course, the Senator and I feel very differently on that question. I hope it would not prevent what the Senator suggests, and that the bill would not be interpreted in such a way. I hope it would not be used as a union-busting measure, in other words. I know that the Senator and I do not agree on that point.

Mr. GOLDWATER. I should like to reframe my question. The Senator and I basically disagree on the meaning of the term he has used. However, my question is based on the fact that today there are unions in the crafts which deny Negroes the right to join them.

Mr. CLARK. I misunderstood the Senator, I am afraid. I apologize.

Mr. GOLDWATER. Let us assume that there is a Negro whose only way of making a living is by laying bricks. Let us assume, further, that he cannot get a job because he cannot join the particular union he would have to join in order to get a job as a bricklayer. My question is this: Does the Senator from Pennsylvania feel that the bill, as it is presently written, would enable the Attorney General to go to the union and say, "You must change your constitution, and you must accept Negroes as members"?

Mr. CLARK. I am inclined to doubt it, and for this reason: Certainly, it would not be true under part IV. Under part III the problem would be whether the Supreme Court as presently constituted would so construe the phrase "equal protection of the law" to require a labor union, which is no part of a State agency, to integrate its membership.

As I understand the law, the equal protection of the law clause is pretty well confined to prohibiting State action, or action taken under color of State law. I would say that if there were a State statute which prohibited the integration of unions, to that extent the bill would apply; on the other hand, with reference only to individuals, labor unions, or corporations, I would doubt very much that the bill would apply.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. CLARK. Let me say one more word. I have made no careful investigation of that legal point.

Mr. GOLDWATER. The reason I asked the question is that one of the lower courts in a Northern State has upheld the right of a particular union to deny membership to Negroes. I do not know whether that case has gone to the Supreme Court. I doubt it has. I was particularly interested in the remarks of the Senator on the establishment of full rights for Negroes; and certainly the right to make a living is as basic a civil right as any now before the Senate.

Mr. CLARK. I agree with the Senator from Arizona, but I should like to point out that no remedial action is available under Federal law unless the action can be brought within the privileges and immunities provisions or the equal protection of the law provision, and therefore I do not feel that the Federal power could take hold. I would make one more disclaimer. I have not given any study to this particular subject. I am merely giving a curbstone opinion from the top of my head.

Mr. GOLDWATER. The junior Senator from Arizona is not a lawyer. He feels that the 1st and 5th and 9th and 14th amendments touch directly upon this particular question. I do not believe there is any question that the first amendment to the Constitution grants the right to association; therefore, a union would be within that definition. The fifth amendment deals with the privileges and immunities of a citizen. The ninth amendment deals with certain inherent rights, one of which I believe is the right to work.

Mr. CLARK. Perhaps the Senator would feel that an easier way to achieve our mutual objective would be through the utilization of the interstate commerce clause, by the passage of an FEPC law. The Senator from Arizona asked me a rather embarrassing question when he asked me if I was prepared to go along with him on an amendment to cut the income tax. I should like to ask him such a question now: Is he prepared to support an FEPC law?

Mr. GOLDWATER. No; I would not be prepared to do so.

Mr. CLARK. That is a frank answer, and I thank the Senator.

Mr. GOLDWATER. I say that because I believe that subject should be left to the individual States. The Senator from Arizona in his own State would probably be in favor of such an act. To tell the 48 States from Washington that they must do something is not in keeping with my concept of the Constitution.

Mr. CLARK. That is the kind of answer I would expect the Senator from Arizona to give. I respect his judgment, but I disagree with him.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. CLARK. I am happy to yield to—my middle-aged eyes do not serve me so well—it is the junior Senator from New York, I believe.

Mr. JAVITS. That is correct. During the debate the fact has been developed that the Attorney General is not going to be everyone's lawyer for every wrong a person can complain of, even if it may involve a civil right. Is that correct?

Mr. CLARK. The Senator is quite correct.

Mr. JAVITS. What we are talking about are rights which refer to equal protection under the law, both Federal and State.

Mr. CLARK. The Senator is correct.

Mr. JAVITS. Therefore, an individual trade-union member may, as he did in the case to which the distinguished Senator has referred, ask to redress a right, which we are not seeking under the bill. I ask that question because it is supremely important that it should be very clear that we are not making the Attorney General's office the

law office for every individual who is aggrieved; and that there are very clear lines of distinction which have been applied to the body of civil rights.

Mr. CLARK. I thank the Senator from New York for making such a pertinent comment.

Mr. JAVITS. Mr. President, will the Senator yield further?

Mr. CLARK. I yield.

Mr. JAVITS. I heard the Senator's comments about the Attorney General, and I should like to say a word further, in order to keep the record straight. That subject represents no fissure between the Republicans and Democrats who are equally devoted to the pending bill.

Mr. CLARK. Except the fissure of the aisle between us.

Mr. JAVITS. Yes. I think it is only fair to say that the Attorney General has waged a considerable struggle on this subject. He did so in the Brown case, for example. The brief in that case by the Attorney General was important in respect to the decision of the Court, and his action in filing it was one which many people did not expect the Attorney General would take. It was in favor of the proposal which the Supreme Court ultimately adopted. It should also be said that the Attorney General supports the bill. I have quoted very extensively from his testimony before the committee. Furthermore, he has certainly given no indication that he has changed his position in any way on the bill.

To the contrary, I believe he fully supports every phase of the bill which is now before us. He specifically testified on every phase of it and has backed it up in every way. Finally, it should be said that the United States attorney in the Clinton case is the attorney for the court, which is quite proper; and I do not believe that that would be conceivable if the Attorney General were not moving forward on this whole subject.

Mr. CLARK. I thank the Senator for his comments. We all know the Attorney General has gone to London while this important debate has been taking place. Of course, the Senate is engaged in a legislative matter. Perhaps the Attorney General is as well off in London as if he were here. I wonder if the junior Senator from New York can give us the same assurance of support of this civil-rights bill by the President of the United States that he has given us with respect to the Attorney General.

Mr. JAVITS. First let me finish with the Attorney General before I take up the question of the President. I think that is the normal hierarchy involved. I am not averse to whatever comment the Senator from Pennsylvania wishes to make about the Attorney General. That is good, clean fun, and we are still on opposite sides of the aisle. But I wish to make it clear for the RECORD that the Attorney General has by no means backed away from civil-rights enforcement, nor do I think his going to Europe has any great significance with respect to the debate. To carry on, he has left plenty of agents to give us assistance, and we know the availability of the Deputy Attorney General.

With respect to the President, I discussed his statement at some length last night, and I believe it can properly be alluded to again. The President apparently has his own way of commenting on matters before him. It may not be my way, but it is his way.

Mr. CLARK. I agree it is not the way of the Senator from New York.

Mr. JAVITS. In a number of instances which are very much like the present situation it turned out that the President did carry the day, and I think it is results which are extremely important. His way of proceeding may be better, although not necessarily so, in my opinion. As I say, very frankly, if I were in his office, I might cry out against the pending proposal, and undoubtedly would, pointing out what I thought was wrong, what amendments to the bill were needed, and so forth. But this is the President's way of doing things. It has gotten results. Therefore, while I think the criticism is legitimate, I think it is absolutely proper and appropriate for those who are from an opposite political party from that of the President—and even in our own party—to say so if they feel he is not saying all he should say with respect to what they think is wrong about the bill. At the same time, in all fairness, I think it is right for some of us at least to call attention to the fact that even though we may not agree with his way, it has produced pretty good results in other cases. The whole controversy about foreign aid, which was recently before us, can be cited as an example.

Mr. CLARK. Also the Defense budget.

Mr. JAVITS. The whole controversy about the Girard case, and so on. I say that again only because, in all fairness, we desire to present a complete view.

I have the greatest admiration for my colleagues on the other side of the aisle. To a man they are joining in a great fight with the utmost cooperation. I think it is a model to the country of what we have all contended. There is the Senator from Illinois [Mr. DOUGLAS], a very distinguished leader in this whole struggle, on the other side of the aisle. The desired result can be accomplished only by our action as a team, in a bipartisan way. I hope we will maintain our cooperation to the final vote, and I see no indication that we will not do so.

Mr. CLARK. I should like to join in the remarks of the Senator from New York. At this time I am happy to yield to my colleague from North Carolina, whom I see on his feet.

Mr. ERVIN. I want to defend the right of the President to say that he does not understand the legal quirks in this bill. The President is perfectly justified in doing so because he, like all Americans, has the right to freedom of speech.

My question to the distinguished Senator from Pennsylvania is this: Would not this bill give the Attorney General the right to litigate at public expense in connection with matters coming within the equal-protection-of-the-laws clause?

Mr. CLARK. I believe it would.

Mr. ERVIN. I will ask the Senator if the benefits of the equal-protection-of-laws clause does not extend to all aliens and all citizens of all races, as well as all corporations within the jurisdiction of the 48 States.

Mr. CLARK. Surely. Why should it not do so?

Mr. ERVIN. I agree with the Senator that it should. Would the Attorney General not be empowered to litigate at the expense of the taxpayers in connection with any person subjected to State labor laws, who alleged that by reason either of the wording of State labor laws or an application to him of State labor laws by State or local officials he had suffered discrimination in respect to other persons similarly situated?

Mr. CLARK. I have not thought about it, but I must say it sounds as though the Senator could be correct. After all, State legislation has been declared unconstitutional many a time, under the equal-protection-of-the-law clause of the 14th amendment, long before this particular controversy arose, and I assume it could be again. To be sure, there is this distinction, that the Attorney General could bring a suit to declare a State law, or State administrative practice, unconstitutional, but that right would also exist in any individual, and has for a long time. So all that is proposed is an alternate remedy, as has been granted, as the Senator well knows, in a great many other cases.

Mr. ERVIN. Yes; but the proposal is to extend it. I think it is unquestionable that under the bill the Attorney General could litigate at public expense in respect to any alleged discriminatory application of any State legislation to any citizen, alien, or corpoation in the United States.

Mr. CLARK. Why does the Senator keep talking about "alien"? What is the significance of that? I do not get the point.

Mr. ERVIN. The point is simply this: The Senator laid stress on the voting rights of Americans. Now it is proposed that a law be enacted under which the Attorney General could litigate at public expense in behalf of any aliens, citizens, or private corporations in the country, upon an allegation that they had suffered discrimination, in comparison with other persons similarly situated, by reason of the application to them of any State law. Is that not so?

Mr. CLARK. I would not be surprised. I have made no careful study of that feature. I would not really care to give a definite opinion on the floor of the Senate, but I say to my friend, the Senator from North Carolina, that I am going to discuss that and other questions later. I do not want unduly to detain the Senator, but it might be a little more pertinent if we discussed that matter later. If it is inconvenient I shall be happy to do so now.

Mr. ERVIN. That would be entirely satisfactory with me. Let us take the organization like a club. It might be a men's club or a country club formed under the corporate laws of a State. Let us say a person were denied membership in that club because he was a Catholic, a non-Catholic, a Jew, a non-Jew, or a Negro. Would that person have redress through the Attorney General?

Mr. CLARK. In my opinion, the answer would still be "No."

Mr. GOLDWATER. For the same reason?

Mr. CLARK. Yes.

Mr. GOLDWATER. Even though it were a corporate structure?

Mr. ERVIN. I do not like to interrupt the remarks of the Senator from Pennsylvania, but the Senator from Arizona raised this point.

Mr. CLARK. He did. I agree.

Mr. ERVIN. I should like to ask the Senator one more question and then I shall subside.

Mr. CLARK. I hope only temporarily.

Mr. ERVIN. That probably will be the case. I do not believe the Senator from Pennsylvania thinks that it is wise to pass a legislative act conferring power and then leave it up to the administrator of the act to determine how much of the power so conferred he will use and how much he will leave unused.

Mr. CLARK. Would the Senator not agree with me that that power exists to a substantial extent in the hands of every district attorney in the country?

Mr. ERVIN. No; because if the district attorney does not habitually prosecute those charged with crime, he will be removed from office for malfeasance or misfeasance. He is under obligation to exercise that power.

Mr. CLARK. If the Senator will indulge me, I shall come to that point a little later, and I would appreciate deferring comment on it until then.

Mr. GOLDWATER. Will the Senator from Pennsylvania yield for one more question? I hope he will excuse my persistent questioning on this proposal, but part III is very difficult for a layman to understand. It is quite difficult for those of us who are not so thoroughly acquainted with the law as we should like to be to comprehend completely what legally trained minds are able to comprehend quickly.

Mr. CLARK. Let me say to the Senator that part III is also difficult for a Philadelphia lawyer.

Mr. GOLDWATER. I am glad to have a Philadelphia lawyer admit it.

Following the same question I previously posed, but in a different case, as the bill is now written, does the Senator feel that if, for example, a Negro were denied membership in a regularly constituted white Masonic organization, would the Attorney General have the power to institute action in such a case?

Mr. CLARK. I should think not, for the same reason I gave a little while ago with respect to the Senator's question about labor unions. That is not reasonable action. The Supreme Court, as I understand, has confined its interpretation of the equal protection clause of the 14th amendment to prohibiting State action or action taken under color of State law. It will be recalled that the amendment begins with the words, "No State shall deny to any citizen the equal protection of laws." I do not believe that could be legitimately extended so as to include a Masonic organization or a labor union.

Mr. GOLDWATER. I think the Senator from Pennsylvania makes a good point there, but let us take a look at one other question that comes up in the same vein.

Mr. CLARK. Yes. I do not think any lawyer would contend that the mere fact that the corporation owed its life to the law of the State would make it a State agency.

Mr. GOLDWATER. Then do I correctly understand that the Senator from Pennsylvania would not interpret that to mean that the State, through its corporate law, would be denying the rights under the 14th amendment or under any other amendment?

Mr. CLARK. No; not if the corporation was a private one. If it was a public corporation, incorporated to perform a State function, I think the answer would be different.

Mr. GOLDWATER. Would that include an organization such as a chamber of commerce?

Mr. CLARK. No, I do not think so; because a chamber of commerce is not a public body.

Mr. GOLDWATER. I thank the Senator from Pennsylvania.

Mr. BUTLER. Mr. President, will the Senator from Pennsylvania yield to me?

The PRESIDING OFFICER (Mr. GORE in the chair). Does the Senator from Pennsylvania yield to the Senator from Maryland?

Mr. CLARK. I yield.

Mr. BUTLER. Will the Senator from Pennsylvania tell the Senate how he fits the Girard College case into the answer he has just given?

Mr. CLARK. Because the Board of City Trusts of the City of Philadelphia, was created by statute as a public body to administer the assets left under the will of Stephen Girard. The Supreme Court specifically based its decision on that point, namely, that the trustees were affected with a public interest or were a public body.

I am sorry to say that it is now being suggested, in Philadelphia—and I deplore it, because I agree with the decision which was rendered—that the board of city trusts resign as trustees of the Girard estate, and that some private persons be appointed as trustees, all for the purpose of denying access to Girard College to Negro orphans.

Mr. BUTLER. Does the Senator from Pennsylvania think that case could logically be enlarged to comprehend some of the situations to which the Senator from Arizona has referred?

Mr. CLARK. Not in my opinion.

I should like to say that I was a member of the board of city trusts, ex officio, when I was mayor of Philadelphia; I served on the board with James Finnegan. We were the only two members who dissented from the position taken by the majority of the board when the majority of the board decided that they were not bound to admit Negro orphans. We dissented from that position; and our position was sustained by the Court.

Mr. JOHNSTON of South Carolina. Mr. President, does the Senator from Pennsylvania believe that as the Supreme Court is presently constituted, if that decision comes before it, Court will still rule that the colored are being discriminated against, and will require that they be admitted?

Mr. CLARK. Let me say that I think prognosticating as to what the Supreme Court will decide is very dangerous.

Mr. JOHNSTON of South Carolina. Has the Senator from Pennsylvania read the numerous cases in which it is clear that the groups set up were established as private groups, and had nothing to do with the State or with any functioning insofar as the State was concerned; and yet the Court still applied that rule?

Mr. CLARK. I have read some of the cases, but probably not as many as the Senator from South Carolina has.

Mr. JOHNSTON of South Carolina. I do not claim to be an authority, of course.

Mr. CLARK. Neither do I.

Mr. President, when the colloquy commenced, I had referred to the committees which had been appointed by the President.

There was the Cordiner Committee, whose study of our technical and managerial personnel needs resulted in a splendid report to the Defense Department, but that, too, is in the "circular file." I could go on almost indefinitely, and even could include the 24 separate advisory committees appointed to help Mr. Benson find out what the farm problem is all about. The end result is always the same—a report which receives headline treatment for a couple of days, and then retires to obscurity, without having accomplished anything.

So why the opponents of this bill should object so violently to the commission it establishes is quite beyond me. Perhaps it is because conscientious commissioners acting in accordance with the authority conferred upon them might conceivably throw light into dark corners and arouse the conscience of the American people to the point where conditions of which we all should be ashamed can be remedied by action.

The duties of the Commission on Civil Rights are limited enough in all conscience. They are confined to, first, investigating charges that citizens are being deprived of their right to vote by reason of their color, race, religion, or national origin; second, studying and collecting information concerning legal developments constituting a denial of equal protection of the laws; and third, appraising laws and policies of the Federal Government with respect to equal protection of the laws. We have had a hundred commissions in our lifetime with far more elaborate duties. Moreover, this Commission has no power to act—all it can do is investigate, study, and appraise.

Yet, opponents of this measure thunder against the Commission as though it were a veritable Court of Star Chamber.

The distinguished senior Senator from Georgia has introduced an amendment which would require the appointment of a full-time staff director for this Commission by the President and his confirmation by the Senate. Mr. President, I believe that a few minutes ago the distinguished minority leader submitted an amendment which would accomplish substantially the same thing. Such a procedure is highly unusual, if not actually unprecedented. Any commission ought to be entitled to appoint its

own executive director. Confirmation by the Senate is usually confined to individuals holding permanent positions of importance in the executive arm of the Government. This ad hoc Commission expires, by the terms of the proposed legislation, in 2 years. I suggest that Senator RUSSELL'S amendment is both unwise and unnecessary. The Commission should be trusted to appoint its own staff director. Senate confirmation would set a bad precedent. The suggested amendment is essentially an affront to the dignity, ability, and good judgment of the members of the Commission—who themselves must obtain Senate confirmation.

Part II of the bill is likewise innocuous enough, merely authorizing the appointment of another Assistant Attorney General who, we are told, will be the Chief of the Civil Rights Division in the Department of Justice. Surely it requires no extensive justification. If the Attorney General is finally and reluctantly ready to move into the field of protecting the rights of all Americans and enforcing the equal protection of the laws which the 14th amendment guarantees, obviously a request for one more lawyer is moderate enough.

It is with respect to part III of the bill that the first really serious arguments in opposition can be made. Part III strengthens existing civil rights statutes by authorizing the Attorney General to institute, in the name of the United States, civil actions for preventive relief. It further gives the district courts of the United States jurisdiction of such proceedings, without regard to whether the party aggrieved has exhausted the administrative or judicial remedies provided by law.

It is against this part of the bill that the full fury of the opposition directs itself.

Let it be said in all candor that the senior Senator from Georgia performed a public service when he dramatically brought to the attention of the Nation, and apparently for the first time to the attention of President Eisenhower, too, the point that part III of the bill goes far beyond protecting the right to vote. It does; and, in my judgment, it should. Under part III of the bill, the Attorney General could institute in the Federal courts a civil action to protect any civil right of an American citizen coming within the broad compass of the equal protection of laws, as that clause in the 14th amendment has been elaborated and defined by the Supreme Court of the United States ever since the 14th amendment became a part of the Constitution. I should think the issue was clear. Either the 14th amendment, as presently construed by the Supreme Court of the United States, is a part of the supreme law of the land, and therefore, is required to be enforced, or else it is not. Those who support the equal protection of the laws as an integral part of our American Federal framework of government under the Constitution should, in all conscience, support part III. Those who prefer to confine the equal protection of the laws to corporations, as was done for so many years in the not-too-distant past, and who oppose the application of that constitutional doctrine to the protection of the civil rights of individual Americans, should not only be opposed to part III, but also should advocate the repeal of the equal-protection-of-the-laws clause of the 14th amendment. After all, the latter is what the argument is all about; it is about equal-protection-of-the-laws clause of the 14th amendment. I suggest that perhaps the opponents of the bill would be wise to direct their attention to the real matter which they oppose, and not to the pending procedural measure which is intended merely to give another remedy in connection with enforcement.

To reiterate, Mr. President, the issue is quite clear: Either we should repeal the equal-protection clause of the 14th amendment, or we should give the Department of Justice all appropriate means for enforcing it, whether those means be criminal or civil.

The third possibility, namely, leaving the amendment in the Constitution, but rendering its enforcement impossible as a practical matter, is one, I am sure, no conscientious legislator would care to advocate publicly. The time is long past when the dictum of President Andrew Jackson finds support:

> John Marshall has made his decision; now let him enforce it.

Such a course is morally indefensible.

Let us always remember that part III of the bill deals with procedures and not with basic rights. It merely gives the Attorney General a new tool with which to enforce existing law. It makes no change in the supreme law of the land.

Let us now examine the arguments against part III of the bill. Most of them are also urged against part IV, which confines itself to protecting the right to vote. If one is convinced that part III is valid, there can be no legitimate objection to part IV, since all of the remedies made available to protect the whole spectrum of civil rights under part III are also included in the milder provisions of part IV. If, however, the arguments against part III should prevail, a strong argument could still be made for the enactment of part IV.

I shall proceed, therefore, at this time in the course of the debate to discuss in some detail the arguments made against part III, hoping to convince the doubtful that they are invalid, and thus to lend their support to the enactment of H. R. 6127 in substantially the form it passed the House of Representatives.

Much of the opposition to both parts III and IV stems from a misconception of the place of equity in our Anglo-American system of jurisprudence. Let me say a word in defense of equity. Harsh words have been said about it in recent weeks. And yet in the minds of most Americans today the words equity and justice are synonymous. Webster's Dictionary defines equity as the state or quality of being equal or fair; fairness in dealing. That which is equitable or fair. It is only thereafter in the definition that equity is defined as the system of law which originated in the extraordinary justice formerly administered by the king's chancellor and was later developed into a body of rules supplementary to or aiding the common and statute law.

Despite the elaborate and able arguments to the contrary, there is nothing disreputable about the parentage of equity. Its origins are honorable. They have little, if anything, to do with the court of star chamber.

The court of star chamber was primarily one to do the will of the King. There is hardly a lawyer in this room who has not perused Lord Campbell's Lives of the Lord Chancellors and discovered the enormous contribution made to justice by equity in moderating the unmitigated harshness of the common law where, if one could find no writ to fit his case, he had no remedy. I hope many of my colleagues will have an opportunity to read these comments in the CONGRESSIONAL RECORD, because I think it is so important that the nonlawyers in the Senate should realize that equity came into being as an instrument of justice, because the common law left a great field where the laws would not permit citizens to have equity. It was the inclusion of equity which permitted us to have our Anglo-American system of justice.

Historically, equity arose to relieve injustice wherever irreparable injury threatened and no adequate remedy at law existed.

Equity is a vital part of our system of law. Those who speak of it as a government of men and not of laws simply do not know their legal history.

The historical function of equity is brought to bear again in the bill now pending before the Senate. Its purpose, as in the past, is to prevent irreparable injury where no adequate remedy at law exists.

What is the irreparable injury? The denial to millions of our fellow citizens of their constitutional rights to vote, to attend good schools, to move about freely with their fellow citizens without regard to their race or color; in short, their right to the equal protection of the laws as guaranteed by the 14th amendment to the Constitution of the United States.

Why is there no adequate remedy at law? Because under the present administration of justice in wide areas the law is not being enforced. This is because of the vicious circle so frequently pointed out. The right to vote is denied to large groups of qualified citizens. Because they cannot vote, they are not called for jury duty. Because they do not serve on juries, juries will not convict in civil-rights cases. I want to make it very clear now that this is no question of indicting or insulting a whole people. This is an effort to bring the mores of the 20th century into areas which still cling to the outmoded doctrines of the past, through the utilization of tried legal procedures.

But it is said that the interjection of equity into the field of civil rights will result in the arbitrary and despotic rule of the people by judges.

What are the facts? These judges, of whom the opponents of the bill complain, are southern gentlemen of culture and conservative tradition. They are honorable and decent and intelligent men like

Judge ERVIN, the distinguished Senator from North Carolina; they are men like Judge Russell, the brother of the distinguished senior Senator from Georgia. Arbitrary government, despotic rule, is as far from their thoughts as it is from yours and mine.

Who selects these judges and by what process? The President of the United States, with the advice and consent of the Senate. By our Senatorial custom such consent is normally withheld if either Senator from the State in which the Federal district lies finds the Presidential nominee personally obnoxious to him. It is well known that the Senate exercises very real control over the selection of Federal judges, and that if certain bar associations do not approve appointments, the Senate will not approve them. In many cases, it is really the Senate which makes the appointments of judges whose nominations are sent to this body.

But it is said that the equitable discretion given to these judges is limitless and, therefore, arbitrary. The facts are that the litigants before him are protected by carefully drawn rules of procedure, civil as well as criminal, and intended to require the administration of equal justice under the law. Before the judge's decree is entered, he must make written findings of fact and conclusions of law. Before he does this he has, in practically every case called before him, under oath, witnesses subpenaed by the parties to testify to the relevant facts. These witnesses are subjected to cross-examination by counsel, and may be questioned by the judge himself. If the facts found by the court are not supported by the evidence, or if the judge's conclusions of law are erroneous, he will be reversed on appeal. And if the facts and the law do not reveal a violation of civil rights, the Government's case will fail.

Nor should we be unduly influenced by the possibility that a temporary restraining order may be issued on affidavits alone. This is the abnormal and not the usual case. When it happens, it is to protect and not to change the status quo. And in every such case an aggrieved defendant is entitled to require promptly a hearing in open court, at which all witnesses will be heard under oath and subject to cross-examination.

"Well," one may say, "this is all very well about the judges, but how about the arbitrary and despotic power of the Attorney General?" It may be admitted on this side of the aisle that the present Attorney General of the United States is unlikely to win either a popularity contest or a vote of confidence in his candor.

Yet if we consider calmly the powers given under this bill to Mr. Brownell or to any other Attorney General, we will, I submit, shake the shackles of our concern.

It is argued that the Attorney General could convert the Federal district courts into administrative branches of the executive department in order to manage schools, conduct elections, and similar activities of a local nature. It has been said that the notion that the Attorney General could not exercise this tremendous power without obtaining a decree from the Federal court is utter nonsense.

This argument, I submit, is something less than persuasive. It amounts to saying that if the Attorney General says to a State or local official who is merely doing his duty, "I'll have the law on you," the conscientious public official will wilt with fear and desert his post of duty.

In point of fact, the defendant in such a case, as a State or local official, would undoubtedly call on his State or county attorney to render an opinion as to his legal duty in the premises; and, if that opinion confirmed the action the State or local official was taking or proposed to take, he would call upon the county or State's attorney to defend him in the Federal court. And in the normal case, the cost of the litigation, which would be nominal, would be born not by the defendant but by local or State unit of government.

Mr. NEUBERGER. Mr. President, will the Senator yield?

Mr. CLARK. I am happy to yield to my friend, the Senator from Oregon.

Mr. NEUBERGER. I have been sitting here listening, with a great deal of benefit, to the very informative address of the distinguished Senator from Pennsylvania. I am particularly pleased that the Senator dwelled at some length on the rather exaggerated alarm which has been expressed in the Senate, and elsewhere, over the presumably vast powers which this bill would confer on the Attorney General.

Like my friend, the Senator from Pennsylvania, I have tried to consider this bill in the context of the era in which we live.

Is it not correct that already—today—the Attorney General of the United States, acting through the United States attorneys all over the Nation, has vast power? Let me cite what I mean. Today there are statutes on the books, placed on the statute books by the Congress of the United States, which give the Defense Department the right to go into virtually every home in the United States and take out of that home a son, grandson, nephew, husband, or father. The Defense Department can then send that person to the farflung corners of the world, to the most remote, beleagured and bleak outposts in the world, to the Arctic or the tropics. The Defense Department does not even need to send that person home alive. If that person does not consent to be taken out of his home by the Defense Department, the United States attorney in any of those communities can go in and tap that person on the shoulder, confine him in jail, bring him to trial and have him sentenced to prison; is that not correct?

Mr. CLARK. The Senator is correct.

Mr. NEUBERGER. Further, is it not true that the Treasury Department of the United States has power, under the laws of the United States, to levy on a portion of a person's income, whether the person has that income from stocks and bonds or whether he has it from the most difficult kind of manual toil, such as digging ditches, working on the railroad, working in a factory, and so on? The Treasury Department can take a substantial portion of that individual's income from him. If that individual is presumed not to have paid his entire income tax, is it not true that the United States Attorney in many cities, with various agents, can go into and examine the bank books, safety deposit boxes, and private and personal papers of that individual, as well as virtually any other document he has in his possession?

Mr. CLARK. The Senator is correct.

Mr. NEUBERGER. Is it not true that if the person refuses to do that he can be subjected to very heavy penalties, such as being incarcerated in prison awaiting trial, summoned to be heard before a grand jury, and, if indicted, sent to trial? Can a very heavy fine not be exacted upon such of his possessions as he may still have? Can he not be sent to prison? Is that not all true?

Mr. CLARK. The Senator is correct.

Mr. NEUBERGER. Is it not correct that the powers which I have enumerated in detail exist on the statute books of this country today? They now are in being.

Mr. CLARK. The Senator is correct.

Mr. NEUBERGER. Is it not true that they are vast powers?

Mr. CLARK. They certainly are.

Mr. NEUBERGER. Is it not true that they belong, here and now, to the Attorney General?

Mr. CLARK. That is correct.

Mr. NEUBERGER. And they belong to the Attorney General as powers which he can exercise through his United States attorneys and his assistant United States attorneys all over the United States.

Mr. CLARK. I point out to the Senator that he not only can, but is required to do so under the law, whereas under the legislation under consideration, the Attorney General's power to invoke this new procedure is discretionary and not mandatory. I make that as a point we ought to take into consideration.

Mr. NEUBERGER. May I repeat for emphasis one question which I put to the able Senator earlier? Can any governmental power be imaginably greater than the power of the Government to go into any home in this land, take from that home the son or the grandson, and send him to the farflung corners of the earth, all the way from the Arctic and Antarctic Circles to the equator?

Mr. CLARK. It is a pretty drastic power.

Mr. NEUBERGER. Is it not to some degree being fanciful, therefore, to cite that this bill provides power never before heard of in the United States of America, when the vast authorities I have mentioned earlier already exist and are taken for granted by Members of this body and by the public at large?

Mr. CLARK. I should not want to charge my colleagues with being fanciful, but I will say I do not agree with their judgment.

Mr. NEUBERGER. Mr. President, I should like to commend the distinguished Senator from Pennsylvania for the very able and informative address which he is contributing to this historic debate.

Mr. CLARK. I thank my friend, the Senator from Oregon.

Mr. LAUSCHE. Mr. President, will the Senator yield?

Mr. CLARK. I am happy to yield to the Senator from Ohio.

Mr. LAUSCHE. My question deals with a remark made by the Senator from Oregon [Mr. NEUBERGER].

Mr. CLARK. Does the Senator from Ohio desire to ask the Senator from Oregon a question?

Mr. LAUSCHE. No. I recognize that the powers of the Attorney General are very broad, but I think that for the purposes of the RECORD, there should be some clarification about the power of the United States Government to call upon its male citizens to defend the country in time of war or time of threatened danger.

My recollection is that practically every constitution of a State in this country——

Mr. CLARK. In the world.

Mr. LAUSCHE. Practically every State constitution has a provision requiring that the male youth shall be subject to call to render defense and military service to the country. From that standpoint, where the constitution requires it, it is a bit different from a statute attempting to impose an obligation. I do not recall whether the Constitution of the United States has a specific declaration requiring the youth to serve the country. I believe it does not. Is that correct?

Mr. CLARK. I think the phrase is to raise armies.

Mr. LAUSCHE. Yes, that is it.

Mr. CLARK. A question of interpretation is involved, of course.

Mr. LAUSCHE. I recall that the constitution of the State of Ohio provides that every white male youth shall be a member of the militia if he is 16 years of age and not more than 45. But we eliminated the word white from the constitution several years ago. I think I am substantially correct in what I have stated.

Mr. CLARK. Perhaps the Senator from Oregon [Mr. NEUBERGER] would like to answer the Senator from Ohio.

Mr. NEUBERGER. I would appreciate it if the Senator from Pennsylvania would permit me to answer in his time, with the understanding that the Senator from Pennsylvania will not lose the floor.

Mr. CLARK. Mr. President, I ask unanimous consent that the Senator from Oregon [Mr. NEUBERGER] may be permitted to answer, without my losing the floor.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Pennsylvania? The Chair hears none, and it is so ordered.

Mr. NEUBERGER. I wish to comment upon the very cogent point the Senator from Ohio has made. It is quite true that such a provision as he mentions is in the constitutions of most States, as I recall. However, it seems to me that still does not alter the very great basic power which presently is given to the Attorney General of the United States. My whole point is that now the Attorney General has very great authority and sovereignty over the citizens of this country, in the enforcement of the laws. Furthermore, I think this point should also be emphasized: what we are talking about, when we approach this voting rights bill, is a provision in the Constitution of the United States. If I am not mistaken, I think those provisions in our Constitution which were adopted immediately after the War Between the States, as it is often called here, very specifically are for the purpose of safeguarding and protecting the voting rights of all people, regardless of race, religion, creed, or color, or the fact that they might previously have been held in human slavery. So when we talk about this bill we are talking about issues which are grounded in our organic law, our Constitution.

Mr. LAUSCHE. We are thinking basically alike. My own view is that in all these discussions our attention is being directed primarily to what we know are our constitutional rights—the constitutional right of trial by jury, the constitutional right not to be compelled to testify against one's self——

Mr. CLARK. The constitutional right to vote.

Mr. LAUSCHE. The constitutional right to vote.

Mr. NEUBERGER. And not to be intimidated when one attempts to exercise the right to vote.

Mr. LAUSCHE. That is the subject with which we are dealing; and I believe our purpose should be to evolve a bill which would provide for every American every constitutional right set forth in the document about which we speak so fervently in an abstract way, and which some are willing to disregard when it suits their purpose. They disregard the granting of the right to vote.

My queries today and during the past week have been made primarily with the object of framing a bill which will insure every citizen the right to vote, and the enjoyment of his other civil rights, and at the same time not steal from any other American his rights under the Constitution. I think we all agree that that is what we should try to do.

Mr. CLARK. I thank the Senator from Ohio. I find myself in agreement with him. I hope he will remain in the Chamber a little longer, because I should like to have the benefit of his thinking when I reach the portion of my speech in which I shall discuss trial by jury.

Nor is the provision of part III giving the Attorney General discretionary power to sue or not to sue either unprecedented or unwise. In point of fact, it benefits the cause of those who oppose the present legislation. It permits the Attorney General to withhold the exercise of his powers in any case where, in his judgment, hardship would result and justice would be denied by the strict enforcement of the law. That this discretion is not unusual appears from a memorandum of the Attorney General printed on page 247 of the hearing before the Senate subcommittee on constitutional rights.

For example, under the antitrust laws, private persons who have been injured are given a right of action for treble damages. Yet, at the same time, the Attorney General may bring suit to restrain the same violations or, in an appropriate case, may procure a criminal indictment. But he is not obliged to do either.

Under the Longshoremen's and Harbor Workers' Compensation Act, the beneficiary of an award may apply for an enforcement order to the district court against an employer who fails to comply with such award; but so may the deputy commissioner making the award. In either event, the remedy is enforced by injunction and the Justice Department represents the deputy commissioner in any court proceedings.

Under the National Housing Act, any person owning a hotel, within a radius of 50 miles of the place where housing built with the aid of mortgages insured under the act is being illegally used for transient or hotel purposes, may bring a private suit for preventive relief; but so may the Attorney General without reference to the consent of private individuals.

Similarly, under the Interstate Commerce Act, the Attorney General may bring suit to recover for the United States the sum of $5,000 for each offense resulting in an award of damages to a private complainant as a result of a violation of the act, but he does not have to do so.

Both the Securities Act of 1933 and the Securities Exchange Act of 1934 authorize the SEC in its discretion to bring action in the district courts for preventive relief even though private persons who have been injured have civil remedies for the same violations of the act.

Every county attorney, every district attorney, every State attorney general has the same discretionary power to determine when and in what cases he will prosecute.

Nor is the language in part III authorizing the Attorney General to apply for a restraining order or a temporary injunction unique. The same general provision occurs in the Atomic Energy Act of 1954, the Federal Power Act, and a half a dozen other situations referred to in the Attorney General's memorandum already mentioned.

Thus it will be seen that the Attorney General's power under part III of the pending bill is no greater than that given to him already in a number of other situations.

Let it always be remembered that before the Attorney General takes office, his nomination must be confirmed by the Senate. He can be impeached by the House and tried by the Senate. He is subject to removal by the President of the United States, an action which my colleagues will recall was taken by President Truman only a few years ago.

Under the circumstances, I suggest that the criticism of this bill on the ground that it gives the Attorney General arbitrary and despotic power falls of its own weight.

"But what about the denial of trial by jury?" one may well ask. Is this not the denial of a constitutional right basic to American liberties? To listen to the opponents of the bill, one might think so, and yet I suggest that a reasoned analysis of part III in the light of existing law will result in exactly the opposite conclusion.

Preliminarily, it should be noted that if there are evils in a system of equity, these evils exist to almost the same extent under a system of jury trial. Those evils are not the result of the system itself, but rather of the continuing imperfectability of man. There is not a trial lawyer in the Senate who has not shaken his head from time to time at the injustice perpetrated by jury verdicts; verdicts which because they finally and erroneously establish the so-called facts, could not be set aside on appeal. There is not a lawyer in the Senate who does not recognize how wise are the provisions of law calling for a change of venue when passion and prejudice have so excited a particular community that a fair jury trial has become impossible. There is not a lawyer in the Senate who does not appreciate that 1 stubborn juror can, and often does, for reasons sincere or venal, as the case may be, prevent his 11 colleagues from taking their appropriate part in the rendering of justice. I would join any colleague or any lawyer who arose to defend the jury system. It is indeed a protection of our basic liberties; and we must maintain it. But I would suspect that most lawyers, in their calmer moments, would pay equal tribute to courts of equity for the part they play in protecting liberties equally basic.

It is said that the proposal to permit the Attorney General to bring suits in equity for preventive relief in the field of civil rights is unprecedented. Yet it has been pointed out time and again on this floor that there are 28 other situations in which the same procedure is available to the United States. And it is no answer to this argument to suggest that each of the 28 cases is different from the situation under discussion. Of course, they are different to some extent. How could it be otherwise? And yet, in each instance, the Congress in its wisdom has decided to authorize the Attorney General to seek injunctive relief to protect the rights of our citizens.

There is no need to describe at length each of these 28 instances. Suffice it to say that, in many of them, it is the health, safety, and rights of our citizens which are being protected, not merely their property rights, as opponents of the legislation contend. A few examples will suffice: Preventing the dissemination of false advertisements, thus protecting the public; preventing the mislabeling of furs; enjoining violations of the Fair Labor Standards Act; preventing the mislabeling of wool products; enjoining violation of the Flammable Fabrics Act, thus protecting the lives of the public. In addition are the cases cited earlier in this speech, in each of which rights of the public were protected through injunctions issued at the request of the Department of Justice.

Mr. DOUGLAS. Mr. President, as one who is not a lawyer, may I ask a question of a Philadelphia lawyer?

Mr. CLARK. Certainly, but with no assurance that the Senator will get the correct answer.

Mr. DOUGLAS. In the old days it was sometimes said that a particularly difficult problem might puzzle even a Philadelphia lawyer. So the Philadelphia bar has historically been regarded as the ablest bar in the United States, and the distinguished junior Senator from Pennsylvania, although he is very modest, is one of the ablest members of that most able body.

Mr. CLARK. I thank the Senator.

Mr. DOUGLAS. May a mere novice ask a question which may be thoroughly ludicrous, but, which, nevertheless, I think may be appropriate?

I have before me the Constitution of the United States. Article I refers to the legislative branch of the Government. Article II refers to the executive branch; and article III, which is sometimes not studied in great detail, refers to the judicial branch of the Government. In article III, section 2, I read this provision:

> The judicial power shall extend to all cases, in law and equity, arising under this Constitution.

That means, does it not, that equity existed before the Constitution came into being?

Mr. CLARK. It certainly did. The Senator is correct.

Mr. DOUGLAS. Therefore the proceedings under equity are not those necessarily prescribed by the Constitution.

Mr. CLARK. The Senator is correct.

Mr. DOUGLAS. Thus far I would be able to get by as a Philadelphia lawyer. Did cases in equity under the English practice and in the colonial courts carry with them the right to trial by jury?

Mr. CLARK. No; they did not.

Mr. DOUGLAS. If a man were charged with being in contempt, was that case submitted to a trial by jury?

Mr. CLARK. It was not. My understanding is that it was not until the Clayton Act of 1914 was passed that, for the first time, the limited right of trial by jury was given in certain contempt cases.

Mr. DOUGLAS. Therefore the proposal before us is really based on what I believe lawyers call the time-honored and immemorial practices of equity. Is that correct?

Mr. CLARK. I believe the Senator is correct.

Mr. DOUGLAS. I am very glad to have an eminent Philadelphia lawyer set this matter straight.

Mr. LAUSCHE. Mr. President, will the Senator yield?

Mr. CLARK. I am very happy to yield to the Senator from Ohio.

Mr. LAUSCHE. I should like to get straight in my mind the aspect of the discussion which deals with the constitutional provisions of this subject. The Constitution provides that our judicial system shall consist of a court of equity and a court of law.

Mr. CLARK. If the Senator will excuse me, it is my understanding that under the Constitution the Supreme Court was created, and that Congress, with the approval of the President, was given the authority to create such inferior courts as in the wisdom of Congress should be established. As the Federal system grew, Federal district judges sat one day in equity, another day in common law, and a third day in civil law, but one judge presided in all three types of cases—civil, common law, and equity.

Mr. LAUSCHE. The Constitution provides that the judicial power shall extend to all cases in law and equity.

Mr. CLARK. I agree with the Senator.

Mr. LAUSCHE. My interpretation of that language is that the framers of the Constitution knew of the division of the courts in England; that they knew that in England there was an established court of common law and that there were courts of equity; therefore, in writing the Constitution they provided that the judicial power should extend to all cases in law and equity.

Mr. CLARK. If the Senator will excuse me, I suggest that he read the rest of section 2, of article III, because he will find it applies also to cases in admiralty, that it affects ambassadors, and also covers a great many other situations. We are not talking about two things, but perhaps a dozen things.

Mr. LAUSCHE. I shall read the entire section. It reads:

> SEC. 2. The judicial Power shall extend to all Cases, in Law and Equity, arising under this Constitution, the Laws of the United States, and Treaties made, or which shall be made, under their Authority;—to all Cases affecting Ambassadors, other public Ministers and Consuls;—to all Cases of admiralty and maritime Jurisdiction;—to Controversies to which the United States shall be a Party;—to controversies between two or more States;—between a State and Citizens of another State;—between Citizens of different States;—between Citizens of the same State claiming Lands under Grants of different States, and between a State, or the Citizens thereof, and foreign States, Citizens, or Subjects.

The fact remains that there are only two courts, the court of equity and the court of law.

Mr. CLARK. I cannot agree with the Senator. I ask his careful attention to section 1 of article 3, which states:

> The judicial Power of the United States, shall be vested in one supreme Court, and in such inferior Courts as the Congress may from time to time ordain and establish.

That means that Congress may create 1 or 2 or 5 inferior courts and provide for various judges to sit in them. There may be one court of equity and one court of law, or they could be put together, as has been done.

Mr. LAUSCHE. I concede that to be the fact. However, we have two systems of trials, with the court of equity hearing cases in equity. Furthermore, in a court of equity there is no trial by jury, and a defendant can be compelled to testify against himself.

Mr. CLARK. No; I ask the Senator to wait a minute on that point. The fifth amendment applies in equity cases just as much as it does in law cases. I do not think it is possible to make a defendant testify against himself in equity. I see the distinguished Senator from New Jersey [Mr. CASE] nodding his head. He is a far more erudite lawyer than I.

Mr. LAUSCHE. In a criminal case the prosecutor cannot call a defendant and say to him, "Take the stand."

Mr. CLARK. He can call the defendant and ask him to take the stand, but then the defendant can refuse to answer questions on the ground that he might incriminate himself. That is true in a criminal case, in a civil case, and in

an appearance before a Congressional committee also.

Mr. LAUSCHE. In a civil case and in a criminal case he need not testify if to do so would incriminate him.

Mr. CLARK. Yes; that is true in an equity case also.

Mr. LAUSCHE. But a defendant cannot be called in a criminal case, because the Constitution provides that no man shall be compelled to testify against himself.

Mr. CLARK. That is correct.

Mr. LAUSCHE. In courts of equity, cases in equity are heard. Then there are courts of law.

Mr. CLARK. And also there is the court of admiralty, which hear admiralty cases. It is not so simple as my friend from Ohio would like to make it, I am afraid.

Mr. LAUSCHE. But with respect to the right of trial by jury——

Mr. CLARK. There is no trial by jury in admiralty cases, either.

Mr. LAUSCHE. I know that.

Mr. CLARK. I am sure the Senator does. The Senator is a distinguished lawyer himself.

Mr. LAUSCHE. In Ohio we have one court, but the same judge hears cases in equity and cases in law.

Mr. CLARK. We have that system in Pennsylvania also.

Mr. LAUSCHE. But in New Jersey there are two courts, in conformity with the principle established in England. New Jersey has a court of equity and a court of law.

Mr. CLARK. I ask my friend from New Jersey whether the Senator from Ohio is correct in that respect.

Mr. CASE of New Jersey. The Senator from New Jersey is not a member of the New Jersey bar; therefore he is not an expert on that subject.

Mr. CLARK. But he is a distinguished member of the New York bar, and lives in New Jersey.

Mr. CASE of New Jersey. Until the recent revision of our constitution in New Jersey, we had two separate courts. The court of equity was a distinct and separate court from top to bottom, except for the court of errors and appeals. Under the new constitution, there is a single court system, with an equity part and a common-law part.

Mr. CLARK. With the same judges sitting in both courts.

Mr. CASE of New Jersey. The same judges; yes.

Mr. LAUSCHE. That is the system we have in Ohio. The point I wished to make is that when the writers of the Constitution provided that the judicial power shall extend to all cases in law and equity, they had in mind that we would follow the principle long established in England, that courts of equity would hear those actions which in England were heard in equity, and that courts of law would hear those actions which in England were heard in courts of law. In the course of time, State legislatures and Congress began expanding the power of the courts of equity.

Mr. CLARK. I should like to point out to my friend from Ohio that the power of the courts of law was also expanded by statute after statute; so that today the law is a very different thing, both in equity courts and in law courts, than it was at the time the Constitution was adopted. I make that point to my friend from Ohio, because I suggest to him, in all sincerity, that we cannot judge the pending bill on the basis of what was the law at the time the Constitution was adopted. If the Founding Fathers had had the remotest conception of what that law would be today under the Constitution, I would be willing to bet my shirt that they would not have adopted it.

Mr. LAUSCHE. Basically, in attempting to determine what was meant by this language, I would say, we should look to the framework and the circumstances that existed when the language was used.

Mr. CLARK. I suggest that would be useful, but not compelling, because times change, as my good friend knows. Conditions are different now. The Senator from Illinois pointed out that in contempt trials in the days the Senator has referred to, there was no provision for jury trial.

Mr. LAUSCHE. We do not have it now. I recognize that there has been an expansion of the different types of cases which have come to the court, but basically the two jurisdictions are still today as they were back in 1787.

Mr. CLARK. I would say to my friend from Ohio, the jurisdictions are coming closer and closer together all the time. For example, the distinguished Senator from North Carolina told me the other day that in his State one may have a jury trial in an equity case. In a number of other jurisdictions, jury trials are provided for in such cases.

Mr. LAUSCHE. May I say to the distinguished Senator from Pennsylvania that in Pennsylvania there is provision for a jury trial in a criminal contempt case?

Mr. CLARK. That is true, and that is with reference to direct criminal contempt, under a statute passed in 1931. It is rather entertaining and amusing that in North Carolina, the opposite is the case. There contempt trials are conducted by a judge alone, and my distinguished colleague from North Carolina is advocating a difference between Federal law and the law as it is in North Carolina. Jury trial in a contempt case is provided for in Pennsylvania, and yet we are saying the pending bill ought to be passed.

I shall point out why there is a difference, and I believe it is a fundamental difference. I shall come later in my remarks to the question of jury trial. I think there should be a jury trial in some cases, and I will comment on that. The real reason why the bill was brought forward in its present form was that in Pennsylvania we choose our juries from the whole body of citizens, without regard to race or color.

Therefore, the juries will not tend to be biased when questions involving civil rights arise. But under the laws of many of the Southern States jurors are selected only from among the voters, and Negroes are not allowed to vote. So if we provide for a jury trial in a contempt case in the Southern States, there will be an all-white jury.

I wish to be very clear that I am not indicting white juries. I am not indicting a whole population. I think that if the situation in Pennsylvania were as it is in the South, the result would probably be the same. I am pointing out that when we have a jury trial in Pennsylvania we have a jury that is unbiased, and selected from all the people in the community.

Mr. DOUGLAS. Mr. President, will the Senator yield so a layman can ask a question of fact?

Mr. CLARK. I yield to the Senator from Illinois.

Mr. DOUGLAS. As between two lawyers discussing legal differences?

Mr. CLARK. I am happy to yield.

Mr. DOUGLAS. Mr. President, will the Senator from Ohio yield also?

Mr. LAUSCHE. I am delighted.

Mr. DOUGLAS. It is true that in a number of Southern States it is required that jurors must be drawn from the list of qualified voters. It is likewise true that in the revision of the Federal Statutes in 1948 it was specifically stated that the qualifications for jurors in Federal courts should be the qualifications of jurors in State courts in the States where the Federal courts were located. This means that disqualification of Negroes on the ground that they are not qualified voters applies in those States which have specific statutes. But the so-called Knox Commission, which went into this matter, headed by John C. Knox, and of which Arthur Vanderbilt, a very eminent jurist from the State of the Senator from New Jersey, was also a member, stated that in other States it was the practice to select jurors by the so-called keyman system, namely, that the jury commissioners would write to county officials and to leading businessmen in various counties, who would transmit a list of persons, who then would be combed over by the jury commissioners to select a panel from which, in turn, the jurors would be drawn.

Mr. CLARK. May I say briefly, interrupting my friend from Illinois, that that practice is presently followed in the Eastern District of Pennsylvania. There seem to be a few so-called blue ribbon juries in Federal courts, where the jury commissioner goes forth into the neighborhood, discovers who the leaders are in the community, and summons them. Lawyers who have represented plaintiffs in negligence cases have objected strenuously to selecting juries on that basis, because it was thought such jurors would be more conservative, and would not return such verdicts as under State law could be given.

I wish to point out that this method of selecting jurors, which I think does have the effect in the South which the Senator from Illinois indicates it does, and is therefore inappropriate, I think, in these cases, is nonetheless used in the North, and therefore we have no reason to be particularly smart about it.

Mr. DOUGLAS. I am merely leading up to a point, namely, while this is a matter which is very difficult to prove, there is good ground for belief that in a great many of the States where the lists are submitted by the so-called keymen, it is difficult for Negroes to be included, or, if

they are included, the tendency is to choose Negroes who go along with the white community, and are sometimes labeled by their neighbors as Uncle Toms.

Mr. CLARK. The Senator has put his finger on one of the things which has disturbed me and which I suspect disturbs the Senator from Ohio in trying to work out a fair provision to protect the constitutional right to vote, the constitutional right to equal protection of laws, and the constitutional right to jury trial, even though we who support this bill contend that we are not getting into a constitutional question, but merely a question of judgment; and I shall have something to say about that in a few minutes.

Mr. LAUSCHE. I am very grateful for the Senator's allowing me to interrupt. I thank him.

Mr. CLARK. I thank the Senator from Ohio. I believe this discussion has increased substantially our understanding of the bill.

Mr. President, the analogy of jury trial in labor-dispute cases where contempt is charged is not pertinent. To be sure, there was a period in our history when Federal and State judges acted in arbitrary fashion in granting injunctive relief against labor unions and employees at the behest of dominant employers. The result was the enactment of those sections of the Clayton Act and of the Norris-La Guardia Act, still on the statute books, which called for jury trials in contempt cases arising under injunctions issued as a result of labor disputes. But for all practical purposes, those acts have been superseded by the Taft-Hartley law. Today, decisions of the National Labor Relations Board are enforced by equitable proceedings instituted in the Federal courts. Orders, decrees, injunctions are issued against the offending party. If these court orders are violated and a contempt proceeding follows, the trial is conducted by the court without benefit of trial by jury.

Under the circumstances, it would seem clear that the analogy drawn by the opponents of the pending bill from labor cases also falls of its own weight.

Mr. ERVIN. Will the Senator yield for a moment?

Mr. CLARK. I am happy to yield.

Mr. DOUGLAS. Is it not true that in labor cases equitable proceedings are not only instituted in the Federal courts, but at the instance of the Federal authorities?

Mr. CLARK. The Senator is correct. The National Labor Relations Board may make a finding. It wishes to have its order enforced. It applies to the Federal court for enforcement of its order through equitable proceedings, and the Attorney General represents the Board.

Mr. DOUGLAS. In cases where the Federal Government seeks the injunction, if an act of contempt is committed, there is no right to a jury trial, is there?

Mr. CLARK. The Senator is correct.

Mr. DOUGLAS. I believe that is a very important point, which needs to be cleared up.

Mr. ERVIN. As a matter of fact, the awards of the National Labor Relations Board are enforced in the court of appeals, which is an appellate court, and which does not have any jurors, in any case, under any circumstances.

Mr. CLARK. The Senator is correct.

Mr. DOUGLAS. Mr. President, I feel very apologetic for intruding between these three eminent lawyers, but I think it is true, so far as my memory goes, that in all cases of administrative law, in the first instance, appeal lies not to the district court, but to the circuit court.

Mr. CLARK. Certainly, in most of them, not all.

Mr. DOUGLAS. And that is provided in order to reduce what would otherwise be the interminable length of judicial process.

Mr. CLARK. I do not believe any lawyer would want to go all the way in respect to that observation.

Mr. DOUGLAS. Sometimes.

Mr. CLARK. Sometimes it takes a little longer than other times.

Mr. ERVIN. Will the Senator yield for an observation?

Mr. CLARK. I am happy to yield to the Senator from North Carolina.

Mr. ERVIN. I should like to state to the Senator from Pennsylvania, and our distinguished friend from Illinois, that a greater burden rests on our friend from Illinois with respect to the law than on the Senator from Ohio, or the Senator from Pennsylvania, or myself. As lawyers, we know this: The law requires all laymen to know every bit of the law; it requires lawyers to know a reasonable amount of law, but it does not require judges to know a "doggone" thing.

Mr. CLARK. I could not agree more with my friend, the Senator from North Carolina. [Laughter.]

Mr. DOUGLAS. Mr. President, I should like to attempt to inject a little note of humor.

Mr. CLARK. I yield.

Mr. DOUGLAS. Was it not Bumble who said—and I do not wish to associate myself with it—"The law, sir, is an ass."

Mr. CLARK. I think he said "a ass."

Mr. President, I would not want—I say this in an attempt to follow the best traditions of senatorial courtesy—to have my remarks of a moment ago construed as indicating that I agree that the judge knew nothing, when Judge ERVIN was the judge, because he knew plenty.

Mr. President, before leaving the jury-trial question, however, it is desirable to explore further an area where perhaps part III could stand amendment. This is the general field covered by the amendment proposed by the distinguished Senator from Wyoming [Mr. O'MAHONEY]. Yet that amendment goes much too far; and, if adopted, it would come close to destroying the remedy provided by the bill.

The distinguished Senator from North Carolina [Mr. ERVIN], one of the bill's ablest opponents, has clearly in mind the distinction between civil and criminal contempt. The first is an effort to obtain compliance with an injunction; the second is a proceeding to punish for its violation. At page 124 of the hearings before the Senate Subcommittee on Constitutional Rights, a colloquy occurred between the Senator from North Carolina [Mr. ERVIN] and me, with respect to contempt. Our mutual thinking was summarized by the Senator from North Carolina, as follows, at the end of that colloquy:

> Of course, civil contempt is a contempt proceeding in which the object is to enforce the judgment of the court, rather than the object of punishing a man for past violation, and I would have to admit that I think civil contempts would have to be punished by the court without a jury trial. In that case I would not advocate it.

Mr. President, after my draft of this speech went to the mimeographing office, but before the speech was delivered, the distinguished Senator from Wyoming [Mr. O'MAHONEY], perhaps having caught up with the point that the Senator from North Carolina and I jointly make, has amended his amendment, so as to eliminate civil contempt from such proceedings unless a jury trial is permitted to be held. So the stricture I have just read as regards the Senator from Wyoming is really unjustified; and I hope I do not give him offense when I say perhaps he has seen a very slight error in his way.

Mr. ERVIN. Mr. President, will the Senator from Pennsylvania yield to me?

The PRESIDING OFFICER (Mr. CHURCH in the chair). Does the Senator from Pennsylvania yield to the Senator from North Carolina?

Mr. CLARK. I yield.

Mr. ERVIN. I wish to state that perhaps I did not express my meaning quite accurately in the colloquy referred to.

Mr. CLARK. Even if the Senator from North Carolina did, he certainly is entitled to change his mind.

Mr. ERVIN. Sometimes in communication a person does not express himself very clearly, and sometimes a person is not heard very clearly.

The Senator from Pennsylvania heard me very clearly, but I am frank to say that I did not express myself as clearly as I intended. It is difficult to express in a few sentences everything in one's mind in regard to a particular matter.

Mr. CLARK. Of course we were having an informal colloquy, and it is not necessary for the Senator from North Carolina to be bound by it.

Mr. ERVIN. Of course.

I agree fully with the Senator from Pennsylvania that under the established definitions of civil contempt and criminal contempt, a civil-contempt proceeding is designed to obtain compliance with an order of a court, whereas a criminal contempt proceeding is designed to punish the defendant; it is punitive in nature.

However, as the Senator from Pennsylvania will note, on page 123 of the hearings I stated the following:

> As a lawyer, I have always felt that all people ought to be fed out of the same legal spoon. We ought not to try one man for contempt of court by one rule and another man by another rule.

On the next page of the hearings I said—and now I refer to the third paragraph on that page:

> But under this thing we would certainly have differences, because under the existing

law concerning civil rights, a criminal contempt, that is, where the violation of the injunction is also a crime, is punishable only after trial by jury.

Mr. CLARK. And then I said:

As the Senator knows, there is also civil contempt.

Then the Senator from North Carolina made the statement which I quoted a few minutes ago.

Mr. ERVIN. That is correct.

Next, Mr. President, I call attention to page 83, where I read to the Attorney General section 401 of title 18; and then I made the following statement to the Attorney General:

That is a statute which I understand covers what we lawyers call civil contempt and where the court imposes punishment not for the purpose of punishment but for the purpose of compelling obedience to some decree entered in a civil action.

After reading that statute, which I said I understood referred to civil contempt, I read to the Attorney General section 402 of title 18. And I also read to him, a little later—as appears on the same page of the hearings—section 3691 of title 18, although the record of hearings incorrectly refers to it as section 3696.

Mr. CLARK. Yes.

Mr. ERVIN. Both those statutes have a headnote about criminal contempts; and both of them provide that wherever the alleged contemptuous act is also a crime under either Federal or State law, the person charged with the contempt shall have the right of trial by jury.

Mr. CLARK. Is that the Clayton Act?

Mr. ERVIN. Yes; it is the Clayton Act. The first one of those statutes—namely, title 18, section 402—is headed "Contempts Constituting Crimes," in the code.

The second one—section 3691 of title 18—bears a headnote "Jury Trials of Criminal Contempts."

On page 180 of the hearings, I made the following statement—it is shown at the top of the page—to the Attorney General; this occurred at a subsequent session:

Where the contempt constitutes a criminal contempt in the sense in which the act enjoined, which is alleged to have been violated, also constitutes a violation of a criminal statute of the State or the Federal Government.

I have read that in order to show that, although I did not express myself clearly, my idea is that while the original definitions of civil contempt and criminal contempt are as I have stated, when the Congress passed the Clayton Act it modified the old definitions to the extent that under the Clayton Act every contempt of court is a criminal contempt, if the contempt is a crime under Federal or State law.

Mr. CLARK. I should like to ask the Senator from North Carolina a question: Does he presently feel—and I accept his explanation, of course, in regard to being accurate—differently from the way he expressed himself, as recorded on page 124 of the hearings; and does the Senator from North Carolina now think that it was improper to permit a judge to impose a sentence for civil contempt, to insure compliance.

Mr. ERVIN. I would say that my remarks, as recorded on page 124, are, I believe, susceptible of the interpretation the Senator from Pennsylvania has placed upon them. I also think that, when they are read in connection with my other statements in reference to the Clayton Act, they are also susceptible of the interpretation I have just placed upon them.

Mr. CLARK. I think so, too. But I am particularly interested in what the Senator from North Carolina now thinks.

Mr. ERVIN. Since that time I have read the debates on the Clayton Act and the debates on the Norris-La Guardia Act. As a result of my study, I am firmly of the opinion that Senator George W. Norris made a correct statement when he said that every man who is charged with an indirect contempt for which he can be sent to jail ought to have a trial by a jury with respect to any issue of fact.

Mr. CLARK. Even though he holds the key to his own cell, and by purging himself of contempt can come out.

Mr. ERVIN. Yes.

Mr. CLARK. I think the Senator from North Carolina has a perfect right to take that point of view. I merely wish to point out that that conclusion was reached a little more recently than several months ago, when the hearings were held.

Mr. ERVIN. I should like to say also that as a result of that study, I have also come to the firm conclusion that one of the finest things ever stated on the floor of the Senate was said by Senator William E. Borah, when he submitted his proposed amendment to the Clayton Act providing that the right of trial by jury would exist even in cases in which the United States is a party. I am firmly convinced that Senator Borah was absolutely correct when he said that if a man had a right of trial by jury, he should have that right regardless of who the plaintiff might be, and that he should not be denied the right of trial by jury in one case because one party was the plaintiff, and be granted the right of trial by jury in another case because another party was the plaintiff.

Mr. CLARK. Would the Senator go so far as to advocate repeal of the 28 statutes which provide such procedure without jury trial?

Mr. ERVIN. I have trouble answering that question because I do not believe any one of the 28 statutes bears any resemblance to this situation.

Mr. CLARK. If the Senator would be so willing, I would be prepared to cry "uncle" and leave the speech to a later date, rather than have the 28 statutes outlined now.

Mr. ERVIN. I will tell the Senator what I would do. If I controlled the majority vote in the Congress of the United States——

Mr. CLARK. Which in many instances the distinguished Senator does.

Mr. ERVIN. Oh, I am a small minority. If I controlled Congress, I would do just exactly what the patron saint of the Senator's political party and my political party, Thomas Jefferson, said should be done: I would have a statute enacted giving everybody the right to have all issues of fact tried by a jury in suits for injunctions and other equity suits, just as is provided under the seventh amendment with respect to common law actions.

Mr. CLARK. The effect of such a statute would be to repeal the 28 statutes to that extent, would it not?

Mr. ERVIN. I would not go so far as to say that. By the way, one of the 28 statutes, as the Senator from Wyoming [Mr. O'MAHONEY] pointed out, is the Clayton Act, which gives the right of trial by jury in contempt cases.

Mr. CLARK. That is, under antitrust proceedings.

Mr. ERVIN. Under some of the statutes, the Interstate Commerce Commission regulates railroads and motortrucks operating under public franchises in interstate commerce. In instances, where a body is merely established to regulate functions of public service corporations, I would not be concerned about the right of trial by jury.

Mr. CLARK. How about the Fair Labor Standards Act?

Mr. ERVIN. The Fair Labor Standards Act recognizes the validity of my position. According to my recollection, the Fair Labor Standards Act provides that the only instance in which the Administrator can sue for an individual is when the action is for damages, with the individual's written consent and at his written request. Then there is a specific provision in the Fair Labor Standards Act that the Administrator cannot sue for injunctive relief in connection with the right of an individual to receive minimum wages or overtime pay.

Mr. CLARK. That is a little different than the jury-trial point, is it not?

Mr. ERVIN. The administrator does not have the power to sue for injunctive relief for an individual in connection with minimum wages or overtime pay.

Mr. CLARK. If he does, there is no jury trial.

Mr. ERVIN. The administrator of the wage and hour law could not seek injunctive relief in the case stated by me.

Mr. CLARK. I thank the Senator.

Mr. ERVIN. I want to thank the Senator for yielding and for his patience.

Mr. CLARK. I am only too happy to yield to the Senator from North Carolina.

Mr. ERVIN. The Senator has been fair and thorough in his argument. While I do not agree with his views and do not concede that the beam is in my eye, and only a little mote in his——

Mr. CLARK. I am perfectly prepared to reverse the beam and the mote.

Mr. ERVIN. The Senator has been so fair that I merely wish to say, so far as I am concerned, he has a right to be wrong.

Mr. CLARK. I thank my friend from North Carolina.

Mr. SYMINGTON. Mr. President, will the Senator yield?

Mr. CLARK. I yield to the Senator from Missouri.

Mr. SYMINGTON. I merely wish to say that I have heard this afternoon from the Senator from Pennsylvania as

fine an address as it has been my privilege to hear anywhere. I want to congratulate him on his very able and scholarly presentation of this engrossing problem.

Mr. CLARK. I thank the Senator.

Mr. GORE. Mr. President, will the Senator yield?

Mr. CLARK. I am happy to yield.

Mr. GORE. The Senator from Pennsylvania has been ably elucidating and provocative in his address. I arise, following the erudite colloquy between him and the distinguished senior Senator from North Carolina and other Senators, to inquire if, in drawing this line of distinction between civil contempt, which, according to agreement between himself and the distinguished senior Senator from North Carolina is to insure compliance—I think, incidentally, the word "obtain" should be used in conjunction with, if not as preferable to, the word "insure"——

Mr. CLARK. It probably would not insure compliance at all, because a contumacious defendant might rather go to jail than comply.

Mr. GORE. Does the Senator agree that the word "obtain" is preferable?

Mr. CLARK. I do.

Mr. GORE. As between such civil contempt and criminal contempt, punitive in nature, I wonder if the Senator has given consideration to the amendment presented by my senior colleague from Tennessee [Mr. KEFAUVER].

Mr. CLARK. Yes, I have, and I am about to discuss that very point.

Mr. GORE. Fine.

Mr. CLARK. Mr. President, the O'Mahoney amendment, and also the amendment offered by the distinguished Senator from Tennessee [Mr. KEFAUVER], in my judgment are defective, in that they fail to require that any jury impaneled to try contempt cases in civil rights proceedings must be chosen and selected without regard to discriminations based on race or color.

Both amendments would, in my humble judgment, perpetuate the very system the bill seeks to destroy; that is, failure to grant the equal protection of the laws to members of the Negro race, under a jury system, which, in practice, excludes members of that race from juries summoned to hear cases to enforce civil rights.

I would not take the position that trial by jury is inadvisable in all contempt proceedings. Perhaps, in saying that I am not currying favor with my colleagues on this side of the aisle who think the bill should be passed without the crossing of a "t" or the dotting of an "i." I would be prepared to support a provision, which I am sure could be drafted by many of the able lawyers in the Senate, which would do four things:

One. Punishment for civil contempt, that is, to enforce the injunction, should be by the court alone, as the Senator from North Carolina [Mr. ERVIN] so gallantly admitted in the colloquy we have just been having, although I do not think he now feels that way.

Mr. CASE of New Jersey. Mr. President, will the Senator yield?

Mr. CLARK. I yield.

Mr. CASE of New Jersey. I think the Senator is clear in his intention, but I want to bring it out by way of emphasis. The Senator does not make his adoption of civil contempt procedure, as distinguished from criminal contempt, the kind specified in the Federal statute, does he?

Mr. CLARK. Perhaps I ought to make clear what I mean by civil contempt. Civil contempt occurs when a defendant refuses to obey an injunction of a court, and he is brought before the court for proceedings to obtain compliance. That can occur only when the injunction is still capable of enforcement. When the defendant is put in jail, because he has disregarded the injunction, he holds either the key to his cell or the checkbook to his own bank account, because he can purge himself of contempt by saying, "Judge, I am going to do what you told me to do." That is what I mean by civil contempt.

Mr. CASE of New Jersey. The provision in the Federal statute which would make criminal contempt of any action which would be a crime is not the test that the Senator from Pennsylvania has in mind.

Mr. CLARK. Definitely not. What the defendant did might constitute a crime, but I would still say he should be punished by the judge alone, so long as he holds the key to his own cell and the checkbook to his own bank account.

Mr. President, although it may be abundantly clear, I should like to state the kind of amendment relating to a jury trial which I personally would support.

First, it should call for punishment for civil contempt in the sense elaborated upon by the distinguished Senator from New Jersey and by me, to enforce the injunction by the court alone.

Second, where the purpose of the proceeding is to punish for criminal contempt—that is to say, after the event and beyond the time when enforcement of the injunction is practicable—a jury trial should be granted. In such cases I assume that the contempt would also be a crime.

The amendment should provide, however, that the jury selected to try the case should make special findings of the facts in dispute, on the basis of which facts, so found, the court would apply the law.

In other words, Mr. President, to elaborate upon that, in my conception of the law it is a function of the jury to find the facts, and it is a function of the court to apply the law. I would not want to have a jury trial amendment which would make it possible for juries, under the compulsion of local feeling, to acquit blindly and in the teeth of the law as laid down by the judge.

I think my good friends in the Senate who are members of the bar appreciate that in many situations special findings of disputed facts are made by juries, and on the basis of those findings, the court then applies the law.

My fourth limitation is the most important of all, and that is that the jury impaneled to decide the facts should be selected from among the citizens of the district in which the court sits, without discrimination by reason of race or color.

So that the RECORD may be clear, I should like to invite the attention of my colleagues to Section 1861 of title 28 of the United States Code, which presently sets forth the qualifications of jurors in the Federal courts, and disqualifies as jurors in the Federal courts any person who is eligible to serve as a juror under State law.

I would require that any such jury trial amendment should make it so very clear that he who runs may read that all citizens of the United States living within the district, without discrimination by reason of race or color, whether or not permitted to serve as jurors in State courts, shall be included in the panel from which the jury selected to try contempt cases is chosen.

Mr. DOUGLAS. Mr. President, will the Senator yield?

Mr. CLARK. I am happy to yield to my friend, the Senator from Illinois.

Mr. DOUGLAS. Is it not true that the Knox Commission, which made its report either in 1947 or 1948, I believe, explicitly recommended that there should be Federal standards for the selection of Federal juries, and that the Federal Government should not blindly adopt the standards or methods by which jurors are selected in the various States?

Mr. CLARK. The Senator is correct.

I should like to point out that what we are talking about now is not a matter of the Constitution at all, it is merely a matter of changing one section of the United States Code.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. CLARK. I am happy to yield to my friend, the Senator from New York.

Mr. JAVITS. I happen to entertain some very deep convictions about the matter of jury trials, so I should like to see if we can clarify the subject, in a discussion with my dear friend and most respected colleague, the Senator from Pennsylvania.

The Senator said that he who is subjected to a charge of civil contempt has the key to the jail in his pocket.

Mr. CLARK. That is a cliché we have been using.

Mr. JAVITS. That is a hornbook legal expression. Is it not a fact, if the Senator's views were followed further, that one charged with civil contempt would have in his pocket the opportunity to convert it into a criminal contempt, if he thought he would do better that way? That would be true for this reason: If one charges the registrar of voting with a civil contempt, that charge could last only until the first election, a primary or whatever it might be. If the official were sick, away, obtained an adjournment, or was engaged in some other ministerial act, which could get him by that day, then the contempt would be criminal contempt, and triable by jury.

I ask whether, in view of the fact that we are running headlong into a community situation and into a State official situation, that would not negate the concept of trying to make a line of division, to which, naturally, as lawyers, we would have a tendency to be sympathetic, as

between the civil contempt and criminal contempt.

Mr. CLARK. I appreciate the force of the argument made by my colleague from New York, but I most respectfully disagree with him. While I think there is a possibility of that happening—and perhaps it might happen in 1 or 2 extreme cases—the price which the defendant would pay for converting the civil contempt into a criminal contempt would be pretty high indeed, because he would have to stay in jail perhaps 1 month or 2 months, and he could be fined $1,000, $2,000, or $3,000, unless the bill contained a ceiling amendment, limiting the amount of fine or imprisonment which could be imposed for such contempt.

Let me say to my friend, the Senator from New York, that I think we are dealing with a very serious social and political problem, and we should be very careful to not go overboard. I must say that one of the rare occasions on which I found myself in agreement with the President of the United States was when he said he could not conceive of circumstances which would require the use of Federal troops to enforce civil rights in the South. I have too much confidence in the good sense of the people in the Southern States, if we put a little stick behind them. Perhaps we will have to apply a medium-size stick. I agree we cannot rest on the carrot and the donkey approach. I think we have to use a certain amount of compulsion.

I am confident this type of proceeding would tend to bring a contumacious defendant into disrepute with the better elements of the community in which he lived.

Frankly, I will say to my friend, the Senator from New York, I am prepared to take a calculated risk. I realize there is involved a question of judgment. I do not have any feeling that my friend, the Senator from New York, is not entitled to take the other view.

I suggest that the instance which the Senator from New York mentioned would be the exceptional and the unusual case. As I said before, I am prepared to take a chance, in an effort to meet the views of so many of our colleagues who, I think with some justice, are concerned about the complete lack of a jury trial in contempt cases.

I should like to say also that, in my own opinion, far too much attention has been devoted in the debate to the unhappy situation of individuals who are almost certainly lawbreakers and Constitution breakers, whose tender feelings seem to incite the sympathy of many of our colleagues far more than the feelings of the poor unfortunate American citizen whose civil rights are being denied. I think it should be our effort to try to find a way to protect their civil rights first and foremost; not merely to give very little consideration to them and infinite consideration to the feelings of those who seek to deny such rights.

I do not know whether I have made myself clear.

Mr. JAVITS. The Senator has. I appreciate his point of view, though I point out, in all fairness, that the contumacious defendant in the instance I have described would not be in any jail or, indeed, in any jeopardy. He would be plying his trade, and getting an adjournment until such time as what might have been a civil contempt could only be a criminal contempt; and we would give him an enormous inducement to follow that course.

Mr. CLARK. Then I do not understand the facts which my friend has put before me. Would the defendant be out on bail?

Mr. JAVITS. The defendant would be subject to an injunction. If he were haled into court promptly, a day or two after the injunction was issued, the proceeding would be a civil-contempt proceeding, because the primary election day, against which it was directed, would not have arrived. If he could stall around for a few days more, it would become a criminal contempt, and he would be entitled to a jury trial, and would probably go free.

Mr. CLARK. I do not think we should enact laws on the basis that the Attorney General will not be diligent in protecting the rights we are undertaking to protect by the pending bill. I believe the situation would be more likely to arise that, after the Attorney General had brought suit against the registrar to require various Negroes to be registered, and the registrar had not acted, the Attorney General, realizing that the time had come, or would come within a reasonable period, when the registration would no longer be pertinent under State law, would immediately summon the defendant in a contempt proceeding, and have him put in jail.

Mr. JAVITS. Unfortunately the Attorney General cannot summon a defendant. He must be summoned before the court.

Mr. CLARK. Of course. I misspoke myself.

Mr. JAVITS. The defendant has a right to produce witnesses. He has all the protections which proceedings in law give him. Indeed, that is my fundamental contention.

I think we have elucidated our restrictive views on that question. I discussed it yesterday.

With regard to the systematic exclusion of Negroes from juries, this, I think, is perhaps the main sticking point in the Senator's ideas, for this reason: The Supreme Court has already held, in the case of Reece against Georgia, that it can throw out a verdict based upon the finding of a jury from which there has been systematic exclusion of Negroes. I have rather grave doubt as to the standards which might be established in Federal law for the particular choice of people to serve as jurors, considering the laws of various States applicable to the composition of their own juries, and also the qualifications for acting as an elector.

Mr. CLARK. I respect the views of the Senator from New York, but I suggest that, inasmuch as the qualifications for jurors in Federal courts are within the purview of Congress, we have ample authority to write the proper restrictive law.

Mr. JAVITS. I do not think I would quarrel with that statement.

Lastly—and I think quite importantly in this situation—it seems to me that the Senator would not be going very much further than is already the law, because under the code of civil procedure a judge may impanel a jury for the purpose of making a finding of fact in a contempt case; and any judge can refuse to impanel a jury which is selected on the basis of the systematic exclusion of Negroes. The Supreme Court has already said that it will throw out such verdicts, so really the only thing which the Senator would add would increase the peril to the rights of a defendant.

We must remember that we are dealing with lawbreakers, people who have defied the decree of a court. I am glad the Senator has said what he did. Let us understand that we are dealing with a minority. We are not dealing with the overwhelming majority in the South—and elsewhere, I am sure—who would wish to obey a court judgment or a court decree. We are trying to figure out one of the protections which should be afforded to a man charged with defying the order of a court.

With all those things already before us, the change which would be made by the Senator's suggestion would involve far more jeopardy and peril to what we are trying to accomplish, particularly in view of the fact that we are not seeking to take away the right to jury trial, which is a fundamental constitutional right, basic in our law. The Senator would grant, under qualified terms, a right which does not now exist. I submit that would involve considerable peril to the object which we are seeking to accomplish, in terms of protection to the defendant.

Mr. CLARK. I respect the views of my friend, the Senator from New York.

If the provisions which I have suggested were reduced to words which he who runs may read, I would be prepared to vote for such an amendment. I am not proposing such an amendment. That is up to those on the other side, who are seeking some acceptable compromise.

I do not think we should be intransigent. I do not believe we should be arbitrary. In my opinion, we should be humble, and endeavor to arrive at some sensible basis on which civil rights can be enforced in the South, without depriving citizens there of what has come to be considered one of their basic rights, namely, the right to trial by jury.

I respect the views of the Senator from New York. Our judgment is usually in accord. However, I regret that it does not seem to be in this particular instance.

Mr. GORE. Mr. President, will the Senator yield?

Mr. CLARK. I yield.

Mr. GORE. I admonish my able friend the junior Senator from New York, with whom it was my pleasure to serve in the other body, not to race too hurriedly to a presumption of contumacy. We must enact laws, not merely to apply to contumacious acts, but to acts, whether taken in contumacy or in good faith.

I wish to compliment the able Senator from Pennsylvania for his contribu-

tion, and for his reasonableness in recognizing and suggesting that there may be an area for compromise on this vexatious issue. I urge him, with his great legal talent and wide experience, to reduce the four points which he has so ably suggested to the form of an amendment, if not to be offered by him, at least to be supplied to those of us who are concerned with this question, for our study.

Mr. CLARK. Let me say to my good friend from Tennessee, whom I thank for his kind remarks, that in my judgment the best Member of this body to perform that task is our distinguished colleague, the Senator from Wyoming [Mr. O'MAHONEY], to whom I have sent the portions of my speech relating to this subject, with the suggestion that he give them careful consideration, with the thought that the amendment which he has already proposed may not be acceptable to some of us on this side of the aisle.

Mr. O'MAHONEY. Mr. President, will the Senator yield to me?

Mr. CLARK. I yield.

Mr. O'MAHONEY. The Senator from Pennsylvania has been good enough to submit to me the suggestions which he has made in his very able speech. When I first presented the amendment relating to jury trial, I sought to explain it as clearly as I could, with my poor abilities, and sought to make clear that in the handling of the registration of voters there would be no reason for a jury trial. The difference between the handling of an order of court by the judge directed to a registrar, who is a known official public servant, and the handling of a charge against a defendant whose identity is uncertain, is very, very broad. I am convinced that every point which the Senator has cataloged in his able spech is covered by the original amendment which I submitted.

Mr. CLARK. I wish I could agree with my friend from Wyoming, but I am afraid I cannot.

Mr. O'MAHONEY. I thought it was implicit in the language of my amendment, in view of the history of the development of contempt proceedings, that there would be no jury trial when the court was dealing with a public official whose duty was to register a qualified voter, particularly when the case might be such that if the judge were to send to jail such a registrar, who was violating the order, he would remain in jail until, in accordance with the Michaelson case, which the Senator from New York has cited, he would take out the key which he himself had, and unlock his prison door by executing the order of the court.

When I presented that amendment and had it printed in the RECORD, I invited all my colleagues to make suggestions with respect to the subject, in order to improve it. I am happy to acknowledge that the Senator from Pennsylvania has done so. I believe that when the time comes to offer the amendment it will be in such form that, if we adopt it, we shall not, as the Senator from New York stated a few moments ago, be writing a law which will involve great danger of loss of freedom and of the civil right to trial by jury with respect to a majority of the people, in the attempt to deal with a very small minority of lawbreakers.

Mr. CLARK. I thank my friend from Wyoming for his very pertinent comments. Inasmuch as he is on the floor, and since he will give some consideration to the memorandum I have sent him, I should like to call his attention, and the attention of my colleagues, to title 28, section 1861, of the United States Code, which presently prescribes the qualifications for jurors in Federal courts. I call his attention to that section, which reads as follows:

1861. Qualifications.

Any citizens of the United States who has attained the age of 21 years and resides within the judicial district is competent to serve as a grand or petit juror unless:

Then a number of exceptions are set forth, such as:

(1) He has been convicted in a State or Federal court of record of a crime punishable by imprisonment for not more than 1 year and his civil rights have not been restored by pardon or amnesty.

(2) He is unable to read, write, speak, and understand the English language.

(3) He is incapable, by reason of mental or physical infirmities to render efficient jury service.

Then there is this fourth exception:

(4) He is incompetent to serve as a grand or petit juror by the law of the State in which the district court is held.

That is where I believe the trouble comes, in trying to do what I know the Senator from Wyoming wants to do, and what every Member of this body wants to do, I am confident, namely, to be sure that when a Negro asserts his rights, and a contempt proceeding is being tried, that the case will be tried before a jury on which a number of members of the plaintiff's race can be represented. I am not indicting a whole people. I am not indicting a whole neighborhood. I have the highest respect for the people of the South.

Mr. O'MAHONEY. I know the Senator from Pennsylvania is not doing that. However, some other Senators who have spoken are doing it, and are doing it specifically with respect to the suggestion the Senator has just made about the qualifications of jurors, as set forth in title 28. The suggestion the Senator now makes is obviously a suggestion in support of another subject which is not now in the bill.

Mr. CLARK. It has reference to trial by jury.

Mr. O'MAHONEY. He will understand that in submitting an amendment to preserve a basic and fundamental right, the right of trial by jury, the Senator from Wyoming is not looking to other subjects which are not covered in the bill.

Mr. CLARK. It seems to me that what kind of jury shall try a case is the main consideration.

Mr. O'MAHONEY. That statement is based on an assumption, I will say to the Senator. However, I am very happy to give consideration to the suggestion. I think the courts have already interpreted the statute in the same way the Senator feels it ought to be interpreted. I am very grateful to the Senator for his suggestion in connection with this matter.

Mr. CLARK. I thank my friend from Wyoming.

Mr. President, as I have indicated such an amendment should go a long way toward meeting the objections of those who believe that no one should be fined or imprisoned for what is essentially a criminal act without benefit of trial by jury. But it would confine such trial to the appropriate function of the jury, which is to find the facts and not to apply the law. And it would require the jury which heard the case to be selected fairly from among all the people whose civil rights were said to be challenged.

I would go even further in an effort to reach an accommodation with the able and sincere Senators who oppose this proposed legislation. I would support an amendment specifically providing a maximum sentence of 6 months and a maximum fine of $1,000 in every case of contempt brought under the proposed act.

More severe punishments, in my judgment, would serve no useful purpose. The aim is to enforce the Constitution of the United States through the strong arm of the Federal Government. This aim can be accomplished, in my judgment, more effectively through moderate penalties than by giving unlimited discretion to the sentencing judge.

Let us now consider the argument that the bill impinges on the reserved rights of the States under the 10th amendment. That amendment provides: "The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people."

It has not been seriously argued that any court would hold the present bill a violation of the 10th amendment. As I understand it, the extent to which the argument goes is that it is both unwise and unnecessary for the Federal Government to move into a field where the States are competent to act. Yet the entire history of civil rights gives eloquent testimony of the fallacy in this contention. *Lane* v. *Wilson* (307 U. S. 268) is but one of a number of cases where the need for Federal protection of the right to vote against arbitrary and unconstitutional State action became clear. There, a State legislature attempted to disfranchise all Negroes who failed to register during an 11-day period. The legislative act resulted from a holding that the "grandfather clause" in the State constitution was unconstitutional. The Supreme Court promptly declared the legislation a violation of the 15th amendment, even though the judicial remedies available in the State courts had not first been exhausted.

When we discuss the applicability of the 10th amendment, we are frequently dealing with administrative and not constitutional processes; and where the States are either unable or unwilling to provide a remedy to redress a wrong, the Federal Government, as in this case, is fully justified in moving in. This is particularly true where, as here, rights of citizens of the United States, protected by the Constitution of the United States,

are involved. It matters not whether we are dealing with article I, sections 2 and 4, and the 15th amendment so far as voting rights are concerned, or whether the question arises under the equal protection of the laws clause of the 14th amendment. In either event, the civil rights of citizens of the United States are in question, and where State, administrative, and judicial remedies have historically proved themselves inadequate, it is the duty of the Federal Government to provide a workable procedure to protect those rights.

It has been argued by opponents of the bill that the Federal Government should not intervene to protect the rights of a private citizen who is given adequate legal protection under State law if he chooses to exercise it. An analogy is attempted to be drawn to the prohibited practice of barratry or the promotion of lawsuits.

Mr. ERVIN. Mr. President, will the Senator yield?

Mr. CLARK. I am happy to yield.

Mr. ERVIN. My State has an administrative remedy statute with respect to the assignment of pupils to schools. Does the Senator not understand that the bill, if it were passed in its present form, would permit the Attorney General to circumvent that statute, or make it cease to operate?

Mr. CLARK. I am not sure that I fully understand the Senator. Is the Senator speaking of an integration case?

Mr. ERVIN. That is correct.

Mr. CLARK. The way I think that would operate would be that the Attorney General usually—although not always, I will admit—at the request of the school board, would move in to protect the school board which had already decided to integrate.

Mr. ERVIN. I am not talking about what the Attorney General would do, but about his power. The bill provides that whenever the Attorney General brings one of the suits to be authorized by the bill, the district court shall exercise its jurisdiction irrespective of whether the aggrieved parties have exhausted all State administrative remedies.

Mr. CLARK. That is correct.

Mr. ERVIN. I am not asking what the Attorney General might do. Frankly, I am like the Senator from Pennsylvania in that I do not entertain as high an opinion of the wisdom of the Attorney General as does the distinguished Senator from New York.

Mr. CLARK. Let us say that he is not one of our heroes.

Mr. ERVIN. I am not one of his most ardent admirers. I shall put it that way. Under the pending bill, whenever the Attorney General brings one of the suits he automatically nullifies for the purpose of the particular case, any State administrative remedy of the nature of that mentioned by me, that is, one by which a school board determines the school to which a child shall be assigned. Does this not mean that the Attorney General, in effect, usurps the functions of the local board of education when he brings the suit and thus bypasses that State administrative remedy?

Mr. CLARK. I should not think so. It seems to me he could only appropriately move in if what he was trying to do could be sustained under the 14th amendment, and the Brown case, as a part of the right of equal protection of the laws, and I should think there would have to be State action which threatened to deprive somebody of equal protection of the laws before he could move in.

Mr. ERVIN. The State laws prescribing administrative remedies would fall to the ground and become inoperative in the cases he brought.

Mr. CLARK. Only if there was action in violation of the 14th amendment. Would not the Senator agree?

Mr. ERVIN. The Attorney General would not have to await the use of State remedies——

Mr. CLARK. That is the law today under Lane against Wilson.

Mr. ERVIN. Only in cases of judicial remedies.

Mr. CLARK. That is correct.

Mr. ERVIN. Lane against Wilson holds the situation is different in the case of administrative remedies other than judicial.

Mr. CLARK. The Senator is correct; and would not the Senator agree that is not a constitutional matter under the 10th amendment? It might be wise, but it is not a constitutional matter. It is a question of whether the Attorney General should move in because of the failure of State administrative remedies or their use to deny rather than to grant justice.

Mr. ERVIN. I will have to disagree with the Senator on that. I do think it is a constitutional question because the State has the right to conduct its public-school system, and the only limitation that is placed on the State in connection with the conduct of its public-school system under the Brown case is that it must not exclude a child from a particular school solely on the ground of its race.

Mr. CLARK. Does the Senator contend that the pending bill would be declared unconstitutional as violative of the 10th amendment?

Mr. ERVIN. I would say if this bill were enacted into law——

Mr. CLARK. The way it is now.

Mr. ERVIN. The way it is now, with this provision in it giving the Attorney General the right to nullify State administrative remedies, that unless the courts would hold it unconstitutional, our Constitution will have become a rope of sand, and the States of the Union will have become meaningless zeros on the Nation's map.

Mr. CLARK. I shall have to disagree with my good friend in that regard. I do not want to press him too far, but does he seriously think this bill is unconstitutional under the 10th amendment?

Mr. ERVIN. I do.

Mr. CLARK. I honor his judgment, but I am reluctantly unable to agree with him.

Mr. ERVIN. For example, we have a State statute in my State prescribing administrative remedies which has been upheld by the Court of Appeals of the Fourth Circuit. It has likewise in effect been upheld by the Supreme Court of the United States, which refused to grant certiorari in a case in which the State administration remedy was applied.

If we passed the pending bill, we would not be nullifying laws prescribing administrative remedies. The Congress would be delegating power to nullify those laws to an executive officer of the Federal Government. The North Carolina statute is certainly constitutional. Otherwise, the Court of Appeals of the Fourth Circuit or the Supreme Court of the United States would have stricken it down. Yet, under this bill, if it passes, Congress would be delegating to the Attorney General the power to strike down that law which has been upheld as a constitutional enactment of the State of North Carolina by the Court of Appeals of the Fourth Circuit in express terms and by the Supreme Court of the United States by implication.

Mr. DOUGLAS. Mr. President, will the Senator yield?

Mr. CLARK. I am happy to yield to my friend the Senator from Illinois.

Mr. DOUGLAS. May I say this as a mere layman who has watched the operations of Senators who are also lawyers——

Mr. CLARK. Not always with approbation.

Mr. DOUGLAS. When there is a combination of a Senator and a lawyer, there is a man who seems to believe he is a Justice of the Supreme Court of the United States.

Mr. CLARK. I suggest to the Senator that a pretty good section of the Senate might be placed in that category.

Mr. ERVIN. I know I am not a member of that body.

Mr. DOUGLAS. Will the Senator yield further?

Mr. CLARK. I am happy to yield.

Mr. DOUGLAS. I have been appalled in recent years to observe Senator after Senator rising and giving opinions reversing the Supreme Court of the United States.

I had always thought that the Congress was the legislative body with powers granted to it by article I of the Constitution, and that the Supreme Court was the supreme judicial branch of our Government under article III; but I constantly find that Senator after Senator, fancying himself to be Chief Justice of the United States, rises and gives a solemn verdict. Thereupon he is immediately regarded as a great authority.

Mr. CLARK. May I suggest to the Senator——

Mr. DOUGLAS. May I complete my satire? It is intoxicating enough to be Senator; it is intoxicating enough to be a lawyer; but to be a lawyer and a Senator creates a drink which sweeps away the sense of nearly everyone.

Mr. CLARK. I hope my friend, the Senator from Illinois, is not attempting to repeal the first amendment to the Constitution of the United States, which applies to Senators and everyone else. We all have our right of free speech.

Mr. DOUGLAS. What I am saying is this: It is for the Supreme Court to decide whether this act as finally passed is in violation of the 10th amendment of the Constitution. It is not for one of us who sit here to say, "Oh, the Supreme

Court will throw it out, because if I were on the Supreme Court I would throw it out."

Mr. CLARK. I am glad to see that my friend from Illinois has gone far enough across the Mason-Dixon Line to call it the "Soopreme" Court instead of "Spreme" Court. [Laughter.]

Mr. DOUGLAS. I was never gifted with a Harvard education, and therefore I am not able to pronounce those words the way city lawyers do.

Mr. ERVIN. Mr. President——

Mr. CLARK. I yield to the Senator from North Carolina.

Mr. ERVIN. Let me say one thing seriously and then one thing with levity. I have taken an oath to support the Constitution of the United States. My oath obligates me to vote against any bill or any provision of a bill I think is unconstitutional. I am like Andy Jackson in one respect. The only way I can interpret the Constitution is through the study I have made of it. I shall reduce myself to a state of humility which will be satisfactory to my distinguished friend from Illinois. I have studied law a long time. I have been appalled by the decisions of the Supreme Court of late days, reversing about everything I have ever been taught about law—even in the Harvard Law School. As a consequence, I find myself in a state worse than ignorance. Josh Billings said, "It is better to be ignorant than to know what ain't so." I did go to Harvard Law School——

Mr. CLARK. The Senator shows evidence of that.

Mr. ERVIN. Recent decisions of the Court compel me to confess that what I was taught at law school and what I learned through my study of the law "ain't so" any more. I believe that puts me into a position of sufficient humility to appease my good friend, the distinguished Senator from Illinois.

Mr. DOUGLAS. May I ask the Senator from Pennsylvania this question: Is it not true that, after all, the decision as to what is constitutional fundamentally rests with the Supreme Court?

Mr. CLARK. The Senator is correct.

Mr. DOUGLAS. I wish my colleagues would remember that fact.

Mr. CLARK. The Senator must remember that we are all American citizens and like to express our views, particularly if we are Senators, too.

Mr. DOUGLAS. I know, and that should be an additional reason why we should refuse to pass the bill because some Senator who is also a lawyer gravely says it is unconstitutional.

Mr. CLARK. I agree with my colleague.

Mr. ERVIN. My great difficulty right now is that the holdings of the Court change so fast. For this reason, I have to rely on my own judgment, bad as it is.

Mr. CLARK. My colleague's judgment is usually excellent. I am afraid in this particular instance I am unable to agree with him.

Mr. DOUGLAS. Does the Senator recall the lines from Gilbert and Sullivan:

> When learned statesmen do not itch
> To interfere with matters which
> They do not understand.

It seems to me it would be well if the Senate would for once observe some intellectual self-restraint instead of every Senator believing he knows every subject in the field of law and is a greater authority than John Marshall, Roger Taney, and Earl Warren rolled into one.

Mr. CLARK. I could not agree more with my friend from Illinois.

Mr. President, indeed, a number of States have passed laws purporting to make it illegal for anyone to encourage another to bring an action to protect that other's civil rights. Yet, it must be clear in the modern world that where the weak need protection from the strong, there is an obligation on the Government to provide it. If the States will not, and the rights involved are constitutional, the Federal Government should.

Precedents are numerous. Those who seek them are referred to pages 245–248 of the hearings of the Senate Subcommittee on Constitutional Rights and the references made earlier in this speech to cases where discretionary power is given to the Attorney General to bring a suit in the name of the United States to enforce rights running concurrently in favor of the private citizen.

Next, it is said, and argued strongly, that those of us who support the bill are espousing the doctrine that the end justifies the means. We are accused of "Machiavellian unction," whatever that may mean. But the shoe, I submit, is on the other foot. It is in the States represented by the opponents of this bill that means are being utilized to gain improper ends. The means used are the denial to the Negro of the procedural and legal rights to which he is entitled in order to enforce his constitutional right to the equal protection of the laws.

Mr. President, we who support this bill are surely, as I said earlier today, not without sin. There is a large mote in our own eyes, in the case of the social, economic, and political conditions found in the North and the East. But in advocating this civil-rights proposed legislation, we are doing no more than carrying out the famous maxim of Chief Justice Marshall in *McCullough* v. *Maryland* (17 U. S. 315):

> Let the end be legitimate, let it be within the scope of the Constitution, and all means which are appropriate, which are plainly adapted to that end, which are not prohibited, but consist with the letter and spirit of the Constitution, are constitutional.

I conclude, Mr. President, as I started, and I am sure my colleagues are glad that I am about to conclude—with the thought that this is a sad occasion—an occasion when friends of long standing, and, indeed, in my case, new friends, too, find themselves deeply divided on a question of principle. I have tried to defend this proposed legislation calmly, soberly, and without rancor. I hope that, in doing so, I have given no offense.

This bill deserves to be passed. It takes a small step toward a solution of grave problems which seriously affect the moral stature of the United States as a world power.

It is no doubt true that the world will little note nor long remember what we say here, so long as we behave ourselves with discretion. But the world may long remember what we do here. If this bill passes, and passes by a large majority, as I hope it will, the Senate of the United States will have given notice to the people of the world that the Constitution of the United States means what it says, that we are prepared to mold our domestic institutions to fit our global protestations, and that this, our cherished institution, the Senate of the United States, can rise with dignity to meet a critical challenge of our times.

Let me say to my southern friends: A strong wind is blowing in the land. We cannot change the direction of that wind, no matter how hard we may try. It is futile to set our sails into the teeth of the wind. Our ship of state cannot move in that direction.

Turn with us, and sail before that wind. There is a glorious future in the land towards which we sail—a future in which the North, the South, the East, and the West, their sectional controversies forgotten, will unite to make a reality out of the American dream.

Mr. DOUGLAS. Mr. President, will the Senator from Pennsylvania yield to me?

The PRESIDING OFFICER (Mr. BIBLE in the chair). Does the Senator from Pennsylvania yield to the Senator from Illinois?

Mr. CLARK. I am happy to yield to my friend, the Senator from Illinois.

Mr. DOUGLAS. Mr. President, I desire to congratulate the Senator from Pennsylvania upon his magnificent address.

Mr. CLARK. I thank the Senator from Illinois.

Mr. DOUGLAS. His address has been noble in spirit, magnificent in thought, clear, and concise. I believe the Senator from Pennsylvania has set an extremely high standard for the debate. He has made a speech which deserves to go down in the history of the Senate as one of the great speeches of all time. I only hope that those of our colleagues who did not hear him speak will read his words in the CONGRESSIONAL RECORD, tomorrow morning, and that his words will go out to the country as a whole, and will be heard in all places and in all sections to which the Senator from Pennsylvania made his very moving closing appeal.

Those of us who urge the enactment of this proposed legislation are doing so, not with a vindictive spirit, but with a desire to help all sections—to help bring the actual level of American life up to the standards in which we say we believe.

Again I desire to congratulate the Senator from Pennsylvania for his magnificent address; and I wish to say that I think the whole country will, in time, be grateful to him.

Mr. CLARK. Mr. President, I thank my friend, the Senator from Illinois, from the bottom of my heart. I wish I could honestly believe that one-tenth of the kind things he has said are true. But I am grateful to my old friend for having said them.

Mr. JAVITS. Mr. President, will the Senator from Pennsylvania yield to me?

Mr. CLARK. I am happy to yield to the Senator from New York.

Mr. JAVITS. Mr. President, I should like to join my colleague, the Senator from Illinois [Mr. DOUGLAS], in expressing deep appreciation to the Senator from Pennsylvania [Mr. CLARK] for an eloquent, erudite, and studied presentation, based upon research and, what is even more important, because adequate research is impossible at a time like this, based upon what obviously is a lifetime dedicated to the study of the course advocated here.

Since—although I believe I sound determined, rather than intransigent—this point may not have been stated as clearly as it should be, I should like to identify myself with the closing expressions of view on the part of my colleague, the Senator from Pennsylvania. I feel exactly as he does, namely, that all in this country are brothers, all are Americans, both in the North and in the South.

Even in the case of the present strong controversy, I hope and pray for an opportunity to find some way by which we may, in the end, do as often is done by lawyers who oppose each other bitterly, namely, have a drink together, at a place where that is permissible, in the spirit of friendship and brotherhood.

Mr. President, I wish to say that at the time of the debate which preceded the action taken by the Senate in making House bill 6127 the pending business of the Senate, I believe that, unfortunately, there was spread abroad in the country the idea that those of us who so strongly favor the pending measure are not standing up to defend it, despite our deep conviction on the subject.

Mr. President, we understand the reason for the creation of that impression. Those of us who advocate strongly the enactment of the bill did not wish to take any action then which would have resulted in extending the debate at that time, for we feared that it might be so greatly extended as to result in hurting the chances of the enactment of the bill.

Now the Senate has reached the stage of giving mature consideration to the bill. So I think it should be exceedingly gratifying to the entire country to realize that there are available such considered and, in my judgment, completely just—both in terms of the law and in terms of the policy of the country—presentations as the one which has just been made so brilliantly by my colleague, the Senator from Pennsylvania [Mr. CLARK], in support of the bill.

Finally, Mr. President, I should like to remind the Senate that one point the Senator from Pennsylvania emphasized—a point which perhaps was not stated as clearly as it might have been, during the rather extended opportunity we had on yesterday to go into the same matter. It was in regard to the limitations existing in this case. An effort has been made to create the impression—and certainly such a tactic on the part of the opposition is legitimate—that one person, the Attorney General of the United States, could, at his whim or caprice, roam all over the country, being everyone's lawyer in any cause in which he conceivably might wish to engage.

I think the Senator from Pennsylvania has made crystal clear the very sharp limitations which, under the bill, will exist in connection with that right—not alone in the courts of law, but even under the authority granted by this bill, when it is passed—as I hope and pray it will be by the Congress.

So, Mr. President, I am very grateful to the Senator from Pennsylvania. I think all persons on our side of the issue should also be grateful to him. I congratulate him for an outstanding presentation.

Mr. CLARK. Mr. President, I thank the Senator from New York from the bottom of my heart. On yesterday he made so distinguished an address that I was hesitant to follow it with my remarks.

I join him in hoping that the debate will be conducted along the lines which he and I and others of our colleagues have tried to follow, and that in God's good time the bill we favor will be passed and will be enacted into law.

Mr. President, I yield the floor.

Mr. POTTER. Mr. President, first I wish my colleagues will indulge me and allow me to complete my statement before asking me to yield. Also, I wish to state we have heard discussed many fine legal opinions on the pending legislation. I am not a lawyer. What I intend to present to my colleagues today are some of the human aspects of the pending legislation.

Mr. President, this is a year of astonishing paradox. We have seen the American public rebel against high Government spending in a historic expression of grassroots opinion. At the same time we are witnessing an extravagant outpouring of public funds to buttress a right which we already have.

I am speaking of the principle of civil rights which we are considering today. No concept is more firmly rooted in our legal structure. No principle has a sounder constitutional base. Yet, in the long struggle to bring it to reality, surely no issue has cost us more in long years of effort, frustration, abortive attempts to legislate, and finally in dollars and cents. The outlays in both private and public funds in behalf of civil rights stagger the imagination.

There has never been any question that the right to vote belongs to every American. The 15th amendment provides that in any election—including purely State and local contests—the right of citizens of the United States to vote shall not be denied or abridged by the Federal or any State government on account of race, color, or previous condition of servitude.

The 14th amendment prohibits any State from making or enforcing laws which abridge the privileges and immunities of citizens of the United States, and from denying to any person the equal protection of the laws. The courts have held that these prohibitions operate against election laws which discriminate on account of race, color, religion, or national origin.

But we also know that these vital concepts are not being carried through at the local level. In certain areas of the United States, millions of Negroes have been disfranchised. Case after case in area after area was documented before the Judiciary Committee which held hearings early this year on civil rights proposals. During the past 10 days of debate the sad details have been repeated.

Again and again, as the case histories mounted, we have been called upon to legislate to correct this blot on our national record, for both the 14th and 15th amendments expressly confer upon Congress the power to enforce them by appropriate regulations.

Over the years prodigious human and material resources have been thrown into the effort to secure civil rights. Great talent and great sums of money have gone down the drain, with little or no results to show for it. Eminent legal authorities have drafted bills which have never seen the light of day. The cost of their services alone runs into millions of dollars. Discrimination against the Negro at the ballot box and the hiring gate has robbed industry, the arts, and professions—and therefore the Nation—of additional millions of dollars' worth of productive talent.

Mr. JAVITS. Mr. President, will the Senator yield at that point?

Mr. POTTER. I am happy to yield.

Mr. JAVITS. I am very glad to hear the Senator make the argument upon the realities involved in a situation of this kind and what it means in blood, sweat, and toil to individuals, as well as to the economic community.

I should like to ask the Senator if he recalls that the former Secretary of the Department of Health, Education, and Welfare, Mrs. Oveta Culp Hobby, in testifying on the question of discrimination and its economic results, gave an estimate of $30 billion a year in terms of the national gross product which could be increased if we eliminated the reductions in earnings and productive power which resulted from discrimination in employment and other economic activities on the grounds of race, creed, or color.

Mr. POTTER. The Senator is absolutely correct. The Senator knows the practical situation that exists today, where a great human resource is not being used. Unfortunately, the Negro citizen is at the lower stratum of our society. A few outstanding members of their race can break through at the top. Dr. Bunche is an example. But the advantages which the white people enjoy are denied to the great bulk of our Negro citizens. While we are dealing with civil rights in the bill, there are some economic rights which must be considered if we are to mean what we say about equality of citizenship.

Mr. JAVITS. I thank the Senator.

Mr. POTTER. The American taxpayer has bought thousands of pages of testimony, drearily intoned at endless Congressional hearings. At this very moment, he is paying $77 a page for printing in the CONGRESSIONAL RECORD the hours, days, weeks—and I expect it

will become months—of debate on the pending civil-rights bill. Think for a moment of the cost of bringing 96 Members of the Senate here day after day, and of the costs we incur as other vital legislation waits.

It is needless to continue. All told, the sorry record of withholding civil rights from all Americans has cost the United States billions—I say billions—of dollars. The cost of individual human indignity and suffering, and the loss of prestige for this Nation in the eyes of the world, is beyond all calculation.

Today, Mr. President, we have an opportunity to end this wasteful effort. At long last we may rectify a great wrong and demonstrate to the world the vitality and strength of the democratic concept.

The issue we must resolve is explosive. It is controversial. Its political repercussions have been described as loaded with dynamite. For these reasons, sentiment for compromise has developed in this Chamber.

Undoubtedly there is room for clarification of the bill. The greatest achievements of the Senate of the United States have stemmed from patient compromise. We shall be doing that as we seek to iron out weaknesses in the proposed legislation before us.

One of the major objections raised by opponents refers to enforcement of section III. They claim that Federal troops could be used under this section to enforce desegregation of southern schools. Certainly this was not the intent of those who drafted the legislation, and it would be wise to clarify the bill by stating that explicitly.

But I should like to issue a warning. The bare bones of the issue we must resolve are revealed in the bill's provisions affecting the right to vote. On this there can be no compromise.

Any compromise on the right to vote will kill the effectiveness of this bill. It will throttle civil rights just as surely as if we voted the entire measure down in a body.

There is an effort under way, as we all know, to amend the bill to provide for jury trials. The Senators who oppose this bill have filled our ears and bombarded the press and public with scare talk on this subject. To insure one legal right, that of voting, they say, we are sacrificing another—the right to a jury trial.

Mr. President, nothing could be further from the truth. Such talk is a smokescreen. It has succeeded in clouding the issue. It has frightened many citizens who have worked for years to make civil rights effective and who cherish the principles of the Constitution.

Mr. President, the jury trial question is a strawman. The strawman has been created out of thin air by those who are fearful of the overwhelming justice and logic of this bill. The strawman can be easily knocked down by the legal facts of the situation. I should like to mention a few.

In February, when the Attorney General appeared before the Judiciary Committee to testify on civil-rights proposals, he went into this point at length. Anyone who reads those hearings will see that he clarified this point over and over again for certain members of the committee.

Briefly, he explained that it is normal court practice—and always has been—to proceed in civil actions, or in what we call actions of "equity," only through a judge and without a jury. This rule has stood the test of time. It is wrapped in the body of our civil law. It has never before been questioned as a method of proper legal procedure. Under constitutional government, the courts and the judges have inherent power by due course of law to appropriately punish by fine or imprisonment or otherwise, any conduct in law that constitutes an offense against the authority and dignity of a court or judicial officer.

The power of the court to act in contempt without a jury is well established.

In criminal actions, of course, the defendant must face a judge and a jury. When an action is called criminal, it is already a thing of the past. The crime has been committed. When a man is deprived of his voting right, the damage is done. This bill, Mr. President, aims to prevent such interference with the right to vote, rather than to prosecute it as a criminal action after the damage has been done. It would operate to avert the act first rather than prosecute it later.

The Department of Justice would be enabled to intervene in behalf of a citizen to prevent violation of his right to vote. It would do so through a simple court order—or injunction—forbidding that violation. Failure to comply would bring a contempt proceeding. If anyone doubted that justice had been done, he would have full right of appeal to a higher court.

There is nothing new or novel about this. Several of our Federal statutes are enforced in precisely the same manner—through injunctive relief. The Labor-Management Act is a law in point.

If the Senators from the South who deplore the absence of a jury-trial clause in this bill will check the body of law in their own States, they will find that it carries out the rule that a person charged with contempt does not have either a constitutional or statutory right to a trial by jury.

In Louisiana's Revised Statutes, we read:

> Every court has the inherent power to enforce the orders which it has power to render, and it is the inherent duty of every judge to see that the proceedings in which he presides shall be carried on decently and with dignity.

In Mississippi the supreme court ruled:

> We do not think it necessary to discuss the error assigned because of the court's action in denying appellants the right of trial by jury in this proceeding for contempt, further than to say that the overwhelming weight of authority is that in such cases they were not entitled to a jury trial.

Two early South Carolina cases established the rule of no jury in contempt cases.

North Carolina:

> And it is in no sense the denial of a constitutional right that a jury trial is refused in such [contempt] cases.

Alabama: Courts are authorized to punish summarily, without a jury trial, disrespect for their authority, including disobedience by any person to any lawful writ, process, order, rule, decree, or command thereof.

Florida: The Supreme Court of Florida in *Ex parte Earman* (85 Fla. 297) recognized the inherent power of courts to punish contempt.

Arkansas:

> The power of punishment for contempt is inherent in and an immemorial incident of judicial power, its conclusions to be reached and judgments found without the intervention of a jury.

Virginia: An attempt to require a jury trial in contempt cases was ruled unconstitutional by Virginia's Supreme Court of Appeals.

Mr. President, I have only summarized the judicial background in these States. For the RECORD, however, I have here complete documentation and case citations supporting my statements, which I request be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER (Mr. DIRKSEN in the chair). Is there objection to the request of the Senator from Michigan? The Chair hears none, and it is so ordered.

(See exhibit 1.)

Mr. POTTER. Mr. President, I repeat, the jury trial question raised by the bill's opponents is a strawman, an issue created out of whole cloth which has no bearing on the bill. The reason behind it is obvious: In many instances southern juries do not convict white men of offenses against Negroes. Making jury trials mandatory will protect those white men and perpetuate their interference with the civil rights of Negroes.

If the opponents of this legislation are sincere in saying that they wish to uphold the Constitution of the United States, surely they will not object to a bill which insures the right to vote.

If they reject this simple, direct and traditional means of assuring every citizen his right, then, Mr. President, we may begin to wonder whether something remains unsaid in this historic debate. Is it that certain Members object to the political uncertainties opened up by a new group of voters, numbering several millions, making their first trip to the ballot box?

Surely this should cause no uneasiness. In 1950 almost half the counties in the South had a Negro population of less than 10 percent. Only one-fifth of southern counties had 40 percent or more colored people. Thousands, perhaps millions, of Negroes leave the South each year. This Negro-white ratio is important in banishing the idea of a "solid South."

To further clarify the intent of this bill, I should like to quote a brief portion of the Attorney General's statement before the Senate Judiciary Committee:

> These proposals would not extend or increase the area of civil rights jurisdiction in which the Federal Government is entitled to

act. These rights are now protected by amendments to the Constitution and when they are violated the Government may act already under the criminal law.

Enactment of our proposals would add civil remedies which would not enlarge or in any way clash, as we see it, with the constitutional limitations on Federal Government action in this field. Rather it would permit us to take civil remedial action instead of having to depend solely on criminal proceedings. I am convinced it would make the difference between success and failure in the meaningful protection of the civil rights of our citizens.

It has consistently been the policy of the Department (of Justice) over the years not to prosecute criminally under the civil rights statutes where remedial action has been taken locally.

But in those areas where the local community completely fails to respect Federal rights, the Federal Government must have power to act, and to act effectively, if the Federal Constitution and the Federal laws are to be, in the words of the Constitution, the "supreme law of the land."

Mr. President, before this grueling episode is over, we shall hear the provisions of this bill attacked on grounds ranging from so-called legal considerations to picayunish details.

For myself, I should like to voice one simple plea to my colleagues:

The Congress of the United States and the American people can no longer ignore the South's disfranchisement of the Negro. In the presidential election of 1956 only 28 percent of Alabama's voters went to the polls. In Georgia only 30 percent voted and in Mississippi 22 percent. This compares with 67 percent in my own State of Michigan and comparatively high percentages in such States as New York and Connecticut.

I repeat, the Congress of the United States can no longer ignore the Negro's disfranchisement. We are called upon to take a giant step in the direction of the principles upon which this Nation was founded.

The distinguished Senator from Georgia has asked that the South "be given time."

Mr. President, the Constitution of the United States was ratified on June 21, 1788.

The Emancipation Proclamation became effective January 1, 1863. That was 94 years ago, and I believe all of us here will agree that some evidence of change might be expected in the span of almost a century. The South, Mr. President, has had time.

Friends of civil rights have shown in this debate moderation and above all, understanding. We ask the same of the South. Now is the time for those able and distinguished gentlemen to demonstrate leadership—not harassment—in the steady progress of this Nation toward its full destiny.

Today, as we move toward action on a bill to guarantee civil rights, I am confident that this Nation is about to take a giant step toward the democratic ideal. The step may stretch our muscles painfully and our forward foot may drag through quagmires as we lift it toward the higher level.

We know how painful the step will be for some: But we must take it together as peoples in other lands are taking it together. We cannot go it alone or in halves or quarters. We need you Americans to whom this step is more painful. We need the leaders of today's South to help us close a gaping void in the democratic structure. To my colleagues of the South, I say: Your opportunity is great, your leadership is worthy, and you white men of the South have built a record of gallantry and courage in statesmanship.

You must help us take that step, for if we do not take it now, we shall have repudiated a great heritage—a heritage for which John Hancock staked his life, for which Washington and his men walked in frozen blood at Valley Forge, for which Lincoln held together an embattled union.

Mr. President, if we do not accept this honest, straightforward obligation, we shall have repudiated everything America stands for in the eyes of a world beleaguered by hunger and oppression. We shall have betrayed those Americans of dark skin who pay their taxes to support this Government and who only a decade ago gave their lives for these selfsame principles.

I fought beside Negroes in the war. I saw them die for us. For the Senate of the United States to repay those valiant men by disfranchising their race would be shoddy indeed. Or even for the Senate to repay them by a watered-down version of this legislation would make a mockery of the democratic concept we hold dear.

This is no last ditch for you, gentlemen of the South. It is your opportunity to prove the worth of the American ideal.

It is possible, Mr. President, even after our labors to produce an acceptable bill and to pass it, that it may not be as virile and effective a measure as many of us would wish. If so, every man here knows that this will not be the end of the struggle for equal rights.

We owe it to this Nation and to the world to pass an adequate civil-rights bill. By adequate I mean that nothing in it should operate to interfere with any individual's right to vote.

If we do not pass adequate legislation, I serve notice today that I will introduce a bill exempting from the draft any man of voting age who is prevented from exercising his God-given legal right to vote.

I see no decency and justice in asking a man to die for a country where he is not permitted to avail himself of the simple democratic privileges of the Bill of Rights.

I should like to recall to my colleagues a few lines from Julius Caesar which hold profound meaning for this Nation today:

> There is a tide in the affairs of men,
> Which, taken at the flood, leads on to fortune;
> Omitted, all the voyage of their life
> Is bound in shallows and in miseries.

The United States today is at the crest of her prestige in the Free World. This is the tide in our affairs which we must take at the flood. This is a moment in history when our behavior reveals to the world our most fundamental motives. Let us so conduct ourselves in the Senate that this Nation does not sink into the shallows and miseries, but remains at the crest forever, serving as a light for the rest of the world.

Mr. CASE of New Jersey. Mr. President, will the Senator yield?

Mr. POTTER. I yield.

Mr. CASE of New Jersey. I wish to express to the Senator from Michigan my deep appreciation personally—and I know my colleagues will join me—for the fine speech he has made, and for his moving and extraordinarily persuasive discussion of the basic underlying issues involved in the proposed legislation pending before the Senate. It is always a pleasure to hear the Senator from Michigan, and on this occasion he brings a specially poignant and valuable message to us.

Mr. POTTER. I thank the Senator from New Jersey, who is one of the distinguished leaders in the field of securing good civil-rights legislation.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. POTTER. I yield.

Mr. JAVITS. I, too, would like to join my colleague from New Jersey and other colleagues who, I know, feel the same way, in complimenting the Senator from Michigan and congratulating him upon a fine presentation. He has made a real contribution to what is developing into a historic debate.

I add that I know of no one who can speak more feelingly and personally, or with greater validity, on a very fundamental question, which I have not heard mentioned in this debate until now. I refer to the fact that Negroes, like white men, have defended the security and the very life of our country, side by side, without distinction, and with great valor. Generals who have led them in battle have so testified. I think that is an extremely salient point, because time and again we have heard proclaimed—and quite properly—the valor with which those in the South have defended American freedom. That is quite true. Their action can be lauded as a fine example of patriotism. The same can be said of the contribution of our Negro servicemen who have served shoulder to shoulder and side by side with men from all areas of the country. The Senator from Michigan is well entitled to speak on that subject.

Mr. POTTER. I appreciate the remarks of the junior Senator from New York. I am sure he will agree with me that some of the present conditions seem grossly unfair, and certainly not in the best traditions of our democratic principles, which we like to have considered as American principles. When a Negro man raises his hand to defend the Constitution and goes into battle and dies as a result of his action, he is defending the very rights guaranteed by the Constitution to every citizen.

Yet he may be prohibited from enjoying some of the benefits. In other words, Mr. President, what I am saying is that he is being asked to take on some of the unpleasant tasks of citizenship, such as serving in the Armed Forces—if we may call such duty an unpleasant duty—and is being asked to take on certain responsibilities of citizenship, which, incidentally, he gladly does. He does not

consider such service in the Armed Forces as a responsibility he would like to avoid, of course, and he, like every other good citizen, is ready to protect his country. However, I say it is grossly unfair to ask him to make some sacrifices and ask him to assume some responsibilities, which may even involve his giving up his life, while at the same time he is not allowed to enjoy his constitutional right to vote.

Mr. KNOWLAND. Mr. President, will the Senator yield?

Mr. POTTER. I yield.

Mr. KNOWLAND. I should like to join my other colleagues in congratulating the distinguished Senator from Michigan [Mr. POTTER] on his very fine contribution to the subject matter of the debate. He has certainly been one of the outstanding advocates of sound and efficient civil rights legislation, as well as effective civil rights legislation; and I know that he has contributed much to the debate, and has been very helpful in his leadership.

Mr. POTTER. I thank the distinguished minority leader.

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. DIRKSEN in the chair). The Secretary will call the roll.

The Chief Clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXHIBIT 1

TRIAL BY JURY IN CONTEMPT CASES IN SOUTHERN STATES

"To try a case of contempt without the intervention of a jury violates no constitutional provision."

The above quotation from a case decided by the Court of Appeals of Georgia states the rule of law followed by American courts since the establishment of our constitutional form of government.

Since many Southern political opponents of the pending civil rights bill state otherwise, it would seem advisable to look into the law in those States from which this opposition arises to determine whether there is any legal basis for their argument based on local practice.

The following is a survey of the law of contempt in those States furnishing signers of the so-called Southern Manifesto.

Alabama

In Alabama, the law of contempt has been codified and is set out in the Alabama Code, title 13, section 2.

Under this statute courts are authorized to punish summarily (without a jury trial) disrespect for their authority, including disobedience by any person "to any lawful writ, process, order, rule, decree or command thereof."

The Alabama courts have held that this is merely declaratory of the common law, *Ex Parte Stephenson*, 34 Ala. App. 1, 40 So. 2d 713; and that the power is inherent in the courts, *Ex Parte Wetzel*, 243 Ala. 130, 8 So. 2d 824.

This view was expressed thusly in *Ex Parte Dickens*, 162 Ala. 272, 280, 50 So. 218:

"All courts have the inherent power to punish for contempt, and although contempts are divided into criminal and civil contempts, yet the power of the court in each, rests upon its right to protect its dignity and to demand obedience to its decrees."

Arkansas

In this State, the governing rule is set out in the case of *Freeman* v. *State*, 188 Ark. 1058, 69 S. W. 267, as follows:

"To determine what the law of contempt is, and the power of the courts with respect thereto, we need only to look to our own decisions, and from these we derive the following rules: (1) That the power of punishment for contempt is independent of statutory authority, being inherent in and an immemorial incident of judicial power, its conclusions to be reached and judgments found without the intervention of a jury . . ." pp. 1063–1064.

In Arkansas, in addition to the courts, the Civil Service Commission has power to find a person in contempt and punish. 19 Arkansas Statutes, sections 1310, 1411, 1510, and 1610.

Also under recently enacted legislation (house bill No. 322, 1957), the newly created "Sovereignty Commission" has been granted the power of contempt.

Florida

Florida likewise recognizes the inherent power of courts to punish contempt. The Supreme Court of Florida voiced its opinion in *Ex Parte Earman*, 85 Fla. 297, 313–314:

"But as all persons do not at all times appreciate or recognize their obligations of respect for the tribunals that are established by governmental authority to maintain right and justice in the various relations of human life, the courts and judges have under constitutional government inherent power by due course of law to appropriately punish by fine or imprisonment or otherwise, any conduct that in law constitutes an offense against the authority and dignity of a court or judicial officer in the performance of judicial functions. And appropriate punishment may be imposed by the court or judge whose authority or dignity has been unlawfully assailed."

The power of the court to act in contempt without a jury is so well established in Florida there are no reported cases raising the issue.

Nonjudicial bodies granted contempt power are the Railroad Commission, Florida Annotated Statutes, secs. 350.59, 350.61, 364.25 and county commissioners, 125.01.

Georgia

In Georgia, it was early decided and repeatedly reaffirmed by the courts that the right to a jury trial in contempt cases is nonexistent. The following cases have so held:

In Re Fite, 11 Ga. App. 665; *Lee* v. *Lee*, 97 Ga. 736; *Stokes* v. *Stokes*, 126 Ga. 804; *Dennard* v. *Farmers and Merchants Bank*, 149 Ga. 837; *Kingsbery* v. *Ryan*, 92 Ga. 108; *Tindall* v. *Nisbet*, 113 Ga. 1114; *Gaston* v. *Shunk Plow Co.*, 161 Ga. 287; *Lewis* v. *Theodoro*, 33 Ga. App. 355.

The quotation introducing this discussion is taken from the Gaston case, in which the Supreme Court of Georgia approved a prior decision of the court of appeals in the following language:

". . . the Court of Appeals held that 'To try a case of contempt without the intervention of a jury violates no constitutional provision.' . . . The right to a trial by jury, unless extended by statute, applies only to actions proceeding according to the course of the common law, not to special proceedings of a summary character." P. 299.

In Georgia, there is one minor limitation on the power of courts to impose punishment without a jury trial.

In cases involving an order to pass money, where the person under order to do so denies that the money is in his custody, he cannot be imprisoned without a jury trial. Code of Georgia Annotated, 24–105 (1).

Louisiana

In Louisiana, the law of contempt has been codified in Revised Statutes 15:11, which states:

"Every court has the inherent power to enforce the orders which it has power to render, and it is the inherent duty of every judge to see that the proceedings in the court in which he presides shall be carried on decently, and with dignity and in an orderly manner; hence every court has authority to issue such writs and orders as may be necessary or proper in aid of the jurisdiction conferred upon it, and to punish, as being a contempt, every interference with or disobedience of its process or orders, as well as every act interrupting or tending to interrupt its proceedings, or impairing the respect due to its authority. . . ."

There are no reported cases challenging the authority of the courts to act without a jury.

Mississippi

When the question of a contempt jury trial was raised in Mississippi, it was summarily disposed of by that State's highest court as follows:

"We do not think it necessary to discuss the error assigned because of the court's action in denying appellants the right of trial by jury in this proceeding for contempt, further than to say that the overwhelming weight of authority is that in such cases they were not entitled to a jury trial." *O'Flynn* v. *State*, 89 Miss. 850, 862; 43 So. 82.

In Mississippi, county boards of supervisors have the power to punish contempt of their authority. Mississippi Code Annotated, title 13, section 2881.

The recently created "State Sovereignty Commission" (house bill No. 880, 1956) has power to punish contempt "by fine or imprisonment at the discretion of the Commission."

North Carolina

Quotations from two North Carolina cases are sufficient to establish the rule in that State.

"And it is in no sense the denial of a constitutional right that a jury trial is refused in such [contempt] cases." *State* v. *Little*, 175 N. C. 743, 747; 94 S. E. 680.

". . . in this State a contempt proceeding is authorized by statute. . . . This Court has described it as sui generis, criminal in its nature, which may be resorted to in civil or criminal actions. . . . And it is held that persons charged are not entitled to a jury trial in such proceedings." *Safie Manufacturing Co.* v. *Arnold*, 228 N. C. 375, 389; 45 S. E. 2d 577.

The rule as expounded by the Supreme Court of North Carolina has been universally followed by the courts of that State. Among the other reported cases applying it are *Baker* v. *Cordon*, 86 N. Car. 116; *In Re Deaton*, 105 N. Car. 59, 11 S. E. 244; and *In Re Brown*, 168 N. Car. 743, 94 S. E. 680.

Senator Samuel J. Ervin, Jr., of North Carolina, one of the leading exponents of the "trial by jury" amendments, served on the Supreme Court of North Carolina prior to his appointment to the Senate. During his service on the bench, he participated in cases upholding contempt proceedings, in which the accused had not been tried before a jury.

These cases are *Hart Cotton Mills, Inc.*, v. *Abrams*, 231 N. C. 431, *Erwin Mills, Inc.* v. *Textile Workers of America*, 234 N. C. 321, *Royal Cotton Mills, Inc.* v. *Textile Workers of America*, 234 N. C. 545, rehearing denied, 234 N. C. 749.

Under North Carolina statutes (G. S. 5–1 to G. S. 5–9) contempt power is granted to referees, commissioners, clerks of court, county boards of commissioners, utility commissioners and industrial commissioners.

South Carolina

Two early South Carolina cases established the rule of no jury in contempt cases.

Ex Parte Winkler, 31 S. C. 171 and *Ex Parte Boyce*, 41 S. C. 201 were both cases involving refusal of litigants to obey court orders. When ordered to show cause why they should not be held in contempt they asked for jury trials but were denied. The Supreme Court of South Carolina upheld the denial.

Speaking further on the question of contempt, the court said, in *State* v. *Goff*, 228 S. C. 17, 21–22, 88 S. E. 2d 788:

"There can be no doubt about the power of the courts of general jurisdiction in this State to punish for contempt. This power is not derived from any statute but from the common law which from its inception recognized this implied and necessary power, without which contumacious conduct could well destroy the authority of any court."

Under South Carolina law, the Reorganization Commission is granted contempt power. Code of Laws of South Carolina, title 9, section 216.

Tennessee

The Supreme Court of Tennessee has rejected the jury trial argument as follows:

"The general rule is that a constitutional guaranty of a jury trial does not apply to proceedings to punish for contempt of court whether in a court of law, a court of equity, a court having criminal jurisdiction, or other court." *Pass* v. *State*, 181 Tenn. 613, 618; 184 S. W. 2d 1.

In its opinion, the supreme court in the Pass case cited with approval *Underwood's Case*, 21 Tenn. 46, in which the following language is found:

"The power to punish summarily by process of attachment, for contempts has been coeval with the existence of courts. Hasty thinkers, proceeding on false notions of liberty, have sometimes maintained, that this power is but little in harmony with the liberal institutions of England and America. But on the contrary, it is obvious that wherever the laws govern, and not the bayonets of the executive power, the courts must be armed with this summary authority in order to attain the ends of their institutions. To courts of chancery it is indispensable."

Texas

In Texas, also, the principle is established that courts decide contempt cases without a jury.

In *Ex Parte Allison*, 99 Tex. 455, 463; 90 S. W. 870, the jury trial argument was answered:

"It is true that in case of a violation of the injunction there is in the contempt proceedings no trial by jury; but no such right exists at common law in proceedings for contempt. Hence that does not contravene the provision which declares that 'the right of trial by jury shall remain inviolate.' That provision merely protects the right as it existed at the time the Constitution went into effect."

Other cases applying this principle are *Ex Parte Houston*, 87 Tex. Cr. R. 8, 219 S. W. 826; *Ex Parte Miller*, 91 Tex. Cr. R. 607, 240 S. W. 944; *Ex Parte Winfree*, 263 S. W. 2d 154.

Contempt power has been conferred by Texas on the following nonjudicial officials: Condemnation Commission, Texas Civil Statutes, article 3264 (11); Railroad Commission, article 6451; State Tax Board, article 7104; Industrial Accident Commission, article 8307 (4).

Virginia

An attempt to require a jury trial in contempt cases was ruled unconstitutional by Virginia's Supreme Court of Appeals.

The legislature had passed a law requiring jury trials in certain contempt cases. In striking down the legislation as unconstitutional, Virginia's highest court ruled in *Carter's Case*, 96 Va. 791, 32 S. E. 780:

"That in the courts created by the Constitution there is an inherent power of self-defense and self-preservation; that this power may be regulated but cannot be destroyed, or so far diminished as to be rendered ineffectual by legislative enactment; that it is a power necessarily resident in and to be exercised by the court itself, and that the vice of an act which seeks to deprive the court of this inherent power is not cured by providing for its exercise by a jury." P. 816.

In the course of its discussion in Carter's case, the court cited with approval the following quotation from Campbell's Lives of the Chief Justices:

"Truth compels me to say that the mode of proceeding by attachment stands upon the very same foundation as trial by jury; it is a constitutional remedy in particular cases, and the judges in these cases are as much bound to give an activity to this part of the law as to any other." P. 807.

Under subsequent legislation, Virginia has limited the power of judges to punish in cases of direct contempt committed in the court's presence by requiring that they impanel a jury to impose punishment exceeding $50.00 fine or 10-day jail sentences. 18 Code of Virginia 258.

This would not, of course, apply in cases involving refusal to obey injunctions and other court orders.

* * * * *

From the foregoing discussion of the law in States from which chief opposition to the civil rights bill stems, it can be seen that there is no precedent in the legal history of those States to support the theories now being advanced by their Congressional spokesmen.

The time tested rule in those States, with two minor exceptions, is that a person charged with contempt does not have either a constitutional or statutory right to a trial by jury. The two exceptions, relating to limitations on the court's power to punish, where money is involved or for contempt in the presence of the court, would not be relevant under the proposed civil rights bill.

In addition to defending the right of courts to punish without a jury, several of these States have extended the power of contempt to administrative agencies, indicating their acceptance of its use in effectuating compliance with orders and decrees necessary for orderly government.

PROPOSED VISIT OF MARSHAL ZHUKOV

Mr. SPARKMAN. Mr. President, many Americans have been puzzled by the strange statement made by President Eisenhower that he was "very hard put to it" to defend our free democratic system of government when talking with his old friend Marshal Zhukov.

In today's Washington Evening Star is an editorial entitled "Easy To Defend," dealing with this matter. I ask unanimous consent that the editorial be printed at this point in the RECORD as a part of my remarks.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

EASY TO DEFEND

In commenting on Marshal Zhukov—"an honest man" and "a confirmed Communist" who apparently used to be a pretty good friend of his—President Eisenhower has made a somewhat surprising confession. He has told his news conference that once upon a time in Berlin, in a 3-hour conversation with this rather attractive Soviet bigwig, he was very hard put to it, ideologically, to defend our free democratic system against the iron rule that the Kremlin imposes upon all under its sway.

As the President has explained, Marshal Zhukov merely told him that our way of doing things is materialistic, whereas the Soviet way is idealistic. We are materialistic, it seems, because we can earn what we please, save what we please, buy what we please, and think and act as we please—up to a point. By way of contrast, life behind the Iron Curtain is idealistic because, in the Zhukov view, it involves the selling of a very hard program—a program under which the people are told that they can do nothing as they please, but must forget about individual freedom and sacrifice their normal liberties for the common good of the state.

What puzzles us is why the President, who was then our top commander in Berlin, should have found it difficult to demolish Marshal Zhukov's arguments. After all, "a confirmed Communist" is a pretty poor debater. For he doggedly and boringly mouths dogmas that are self-evidently ridiculous in the way they do violence to all recognizable realities. One reality is that men are children of God who want to be reasonably free. Another reality is that they are not free under the Soviet system and that system is quite literally a system that regiments and terrorizes the masses to serve the twisted ambitions of a power-hungry despotism made up of only a few men with feet of clay. And a third reality, among many others, is that this despotism, wherever it exists in the world, is so unsure of itself, so absolutely and so utterly unrepresentative of the people it subjugates, that it never dares to let those people have liberty at the polls, or any other kind of liberty, lest they overthrow their oppressors and become their own masters.

As for materialism and idealism, what could be more materialistic or less idealistic than the bleak Communist philosophy? For this philosophy denies the possibility that God exists. It affirms only that man is a sort of cosmic accident with no soul in him, no indwelling individual nobility, no higher meaning than to live and die and become nothing but pointless dust for all eternity, and hence only a creature that superior or stronger bits of dust (like Mr. Khrushchev, for example) are entitled to exploit and enslave. Is this a better measure of humanity than the one by which the Free World governs itself? Is it harder to defend than the Red totalitarian measure?

Actually, as between the nature of communism and the nature of our free way of life, nothing should be easier than a sales talk espousing the latter. True, steeped as he is in the rigid, reactionary and obsolete stupidities of Marxism-Leninism, a confirmed Communist, even if he is also an honest man, may be impervious to commonsense arguments. But the President, when and if Marshal Zhukov comes over here for a visit, ought to try again to explain to him just why our system seems infinitely preferable to the Kremlin's.

RECESS TO MONDAY

Mr. MANSFIELD. Mr. President, if there are no Senators who desire to address the Senate, I move that, under the order previously entered, the Senate stand in recess until Monday next at noon.

The motion was agreed to; and (at 4 o'clock and 51 minutes p. m.) the Senate took a recess, the recess being, under the order previously entered, until Monday, July 22, 1957, at 12 o'clock meridian.